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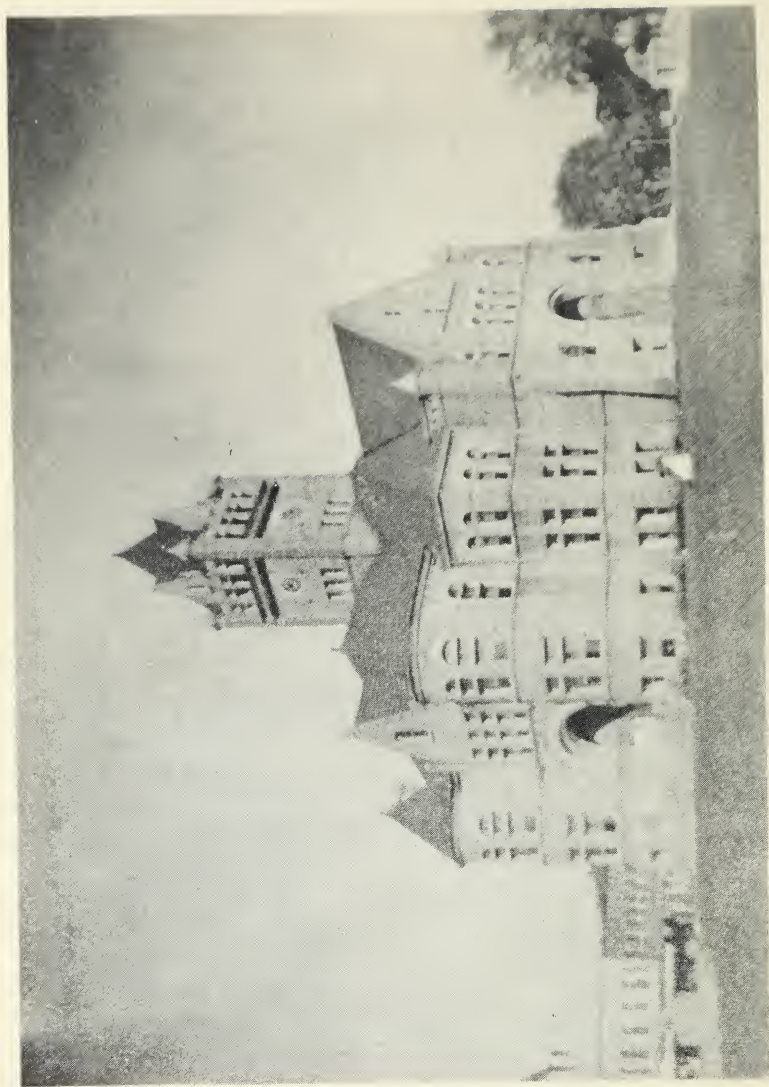




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FULTON COUNTY COURTHOUSE, ROCHESTER, INDIANA

INVENTORY OF THE COUNTY ARCHIVES  
OF INDIANA

Prepared by

The Indiana Historical Records Survey  
Division of Community Service Programs  
Work Projects Administration

Sponsored by  
Indiana Historical Bureau

No. 25. FULTON COUNTY  
(ROCHESTER)

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The Indiana Historical Records Survey  
Indianapolis

1942





## FOREWORD

1200031

The *Inventory of the County Archives of Indiana* is one of a number of guides to historical materials prepared throughout the United States by workers on the Historical Records Survey Projects of the Work Projects Administration. The publication herewith presented, an inventory of the archives of Fulton County, is number 25 of the Indiana series.

The Historical Records Survey program was undertaken in the winter of 1935-36 for the purpose of providing useful employment to needy unemployed historians, lawyers, teachers, and research and clerical workers. In carrying out this objective, the project was organized to compile inventories of historical materials, particularly the unpublished government documents and records which are basic in the administration of local governments, and which provide invaluable data for students of political, economic, and social history. Up to the present time approximately 1,400 publications have been issued by the Survey throughout the country. The archival guide herewith presented is intended to meet the requirements of day-to-day administration by the officials of the county, and also the needs of lawyers, businessmen, and other citizens who require facts from the public records for the proper conduct of their affairs. The volume is so designed that it can be used by the historian in his research in unprinted sources in the same way he uses the library card catalog for printed sources.

The inventories produced by the Historical Records Survey Projects attempt to do more than give merely a list of records—they attempt further to sketch in the historical background of the county or other unit of government, and to describe precisely and in detail the organization and functions of the government agencies whose records they list. The county, town, and other local inventories for the entire country will, when completed, constitute an encyclopedia of local government as well as a bibliography of local archives.

The successful conclusion of the work of the Historical Records Survey Projects, even in a single county, would not be possible without the support of public officials, historical and legal specialists, and many other groups in the community. Their cooperation is gratefully acknowledged.

The survey program was organized by Luther H. Evans, who served as Director until March 1, 1940, when he was succeeded by Sargent B. Child. The survey operates as a Nation-wide series of locally sponsored projects in the Division of Community Service Programs, of which Mrs. Florence Kerr, Assistant Commissioner, is in charge.

HOWARD O. HUNTER

Commissioner of Work Projects

## PREFACE

The Historical Records Survey, one of the projects of the Service Division of the Work Projects Administration, was organized in January 1936 with Luther H. Evans as National Director. The survey of local public records was begun in Indiana on February 19, 1936 as part of the Federal Writers' Project, but in September of that year the Survey became independent of the Writers' Project. On September 1, 1939 the Indiana Historical Records Survey became a State project under the sponsorship of the Indiana Historical Bureau, and Roger A. Hurst was appointed State Supervisor of the Survey in January 1940. Mr. Evans was succeeded as Director by Sargent B. Child in March 1940.

The objectives of the Indiana Historical Records Survey are to discover, preserve, and make accessible historical materials of a public or semi-public nature. Inventories of the records of counties, cities, towns, and churches, and guides to manuscript depositories and collections are included in this program. The Survey also prepares church and vital statistics directories, and has transcribed or micro-filmed certain early county records as a measure of preservation.

The inventory proper is preceded by essays on the history, government, and record housing of the county. The records themselves are described in entries giving the following information: Title of record, dates available, quantity, labeling, variant titles, description of contents, arrangement, indexing, nature of recording, size, and location. The various county bureaus--both active and defunct--are arranged in functional order: Governing boards; major administrative offices; judicial offices; and financial, election, educational, health, public welfare, engineering, and other groups. Wherever applicable, natural groupings under separate headings are made within each bureau.

The field work of the survey in Fulton County was performed at various times in 1940 and 1941, much of it under the supervision of Charles A. Ferry, district supervisor and later an assistant state supervisor. Information for this volume was submitted to a State editorial staff, of which the

department heads were: Russell Fox, record entries; W. Davis Hamilton, legal research; Harry Graves, historical sketch; and Elmer Knapke, illustrations. This volume was multigraphed by Survey personnel directed by William Deupree, who also served as managing editor and prepared the housing essay.

The survey is deeply indebted to many Fulton County officials; to Dr. Christopher B. Coleman, Director, Indiana Historical Bureau, who gave valuable advice and service; to John K. Jennings, State WPA Administrator; to Mildred E. Schmitt, State Director, Service Division, who has rendered the Survey important service in administrative matters; and to many others who contributed time and effort. This book is truly a co-operative effort, but circumstances beyond the control of the Survey made it necessary that this inventory be the last of the series for the duration of the war.

The *Inventory of the County Archives of Indiana* will, if completed, consist of a separate volume for each county. A list of inventories published to date appears at the end of this volume. Numbers are assigned according to the county's position in an alphabetical list and thus the Fulton County volume is number 25. Four hundred copies of this inventory have been published and many have been distributed to libraries, universities, government offices, and other depositories over the State and the Nation. Copies will also be available in Fulton County for persons, offices, or institutions having occasion to use county records or to study local government. Requests for information concerning this and other publications of the Survey in Indiana should be addressed to the Director, Indiana Historical Bureau, Senate Avenue and Ohio Street, Indianapolis.

ROGER A. HURST

State Supervisor

The Indiana Historical Records Survey

Indianapolis, Indiana

May 1942



## FULTON COUNTY OFFICIALS

1942

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Roy Morris

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### CORONER

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### PROSECUTING ATTORNEY

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### COUNTY ASSESSOR

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## HIGHWAY SUPERVISOR

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ELECTION COMMISSIONERS, AND  
COUNTY BOARD OF CANVASSERS

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of schools, the township trustees, and  
the presidents of municipal school  
boards.*

## COMMISSION OF PUBLIC RECORDS

*Composed of the judge and clerk of  
the circuit court, the president of the  
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WELFARE

Gail Harsh

Mrs. George Baum

Mrs. Carl Newcomb

Faye Emmons Swihart

Boyd Peterson

Edward R. Vawter

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## PART A. FULTON COUNTY AND ITS RECORDS SYSTEM

### 1. HISTORICAL SKETCH

#### PHYSICAL CHARACTERISTICS

Fulton County, in the lake region in the north-central part of Indiana, is in the third tier of counties south of the Indiana-Michigan line.<sup>1</sup> It is bounded on the north by Marshall County, on the east by the counties of Kosciusko, Wabash, and Miami, on the south by Cass County, and on the west by Pulaski County. The eastern boundary is very irregular. The county comprises an area of 367 square miles or 234,880 acres.<sup>2</sup>

The principal stream in the county is the Tippecanoe River. It enters the county near the northeast corner; flows in a southwesterly direction to a point near the center of the county; then flows northwest and leaves the county near the northwest corner. The marsh and lowland area of the county is drained by the Tippecanoe River, Mud Creek, and several smaller streams and ditches.<sup>3</sup>

Lake Manitou, the county's largest natural body of water, is about 1 mile east of Rochester, in the central-eastern part of the county. Lake Bruce is on the boundary line between the counties of Fulton and Pulaski. Several other smaller lakes dot the surface of the eastern half of the county.<sup>4</sup>

A range of low hills extends from the southeast corner of the county to a point about 2 miles east of the northwest corner. The northeast section is mainly underlaid with gravel deposits. The hills north of Rochester are composed of gravel and clay and rise to a height of 60 feet above the gorges which lie between them. The southeastern section below the range of hills is composed of low marshlands and sand flats,

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<sup>1</sup> Henry A. Barnhart, *History of Fulton County*, p. 17.

<sup>2</sup> Indiana State Planning Board, Preliminary Survey of County Planning Problems in Indiana Counties, 1935-36, Fulton County section, p. 1, (typewritten manuscript in Indiana State Library).

<sup>3</sup> Barnhart, *op. cit.*, p. 17.

<sup>4</sup> Indiana State Planning Board, *op. cit.*, p. 7, and map preceding p. 1.

traversed at long intervals by low ridges of wind-blown sand. The greater part of the southwest section is former swamp land. The northwestern corner is generally level.<sup>5</sup>

The highest point in the county, 900 feet above sea level, is about 3 miles northwest of Rochester in Richland Township. The elevation at Rochester is 779 feet.<sup>6</sup>

The physical characteristics of Fulton County are largely due to the result of glacial action. The thickness of the drift varies from 155 feet to 245 feet at Rochester and 167 to 208 feet at Kewanna. In the county are found rocks similar to those found between Lake Superior and Hudson Bay and copper ores similar to those found in the Lake Superior region.<sup>7</sup> The record of the drilling of a well at Rochester shows the following: Trenton limestone, 24 feet; drift, 245 feet; Hudson River and Utica, 391 feet; and Niagara limestone, 525 feet.<sup>8</sup>

Temperature readings at Rochester for the year 1940 show a mean average temperature of 50.1 degrees fahrenheit. Extremes of temperature for the year show a high of 101 on July 24 and a low of 14 below zero on January 19. Below-zero temperatures occurred on 10 days of the year 1940. Precipitation ranged from a high of 4.90 inches in May to a low of .06 inches in July.<sup>9</sup>

#### EARLY INDIANA

There is now no evidence that the area comprising Fulton County was the home of the mound builders, but evidence of their residence is found in adjoining territory.<sup>10</sup>

Following the era of the mound builders and before the coming of the white men to what is now Indiana, savage tribes of Indians roamed the forests and prairies and made the streams of the untamed wilderness their highways, their mode of travel being the canoe of birchbark or hollowed log. These Indians lived in tribal communities, subsisted mostly from hunting and fishing, and practiced a rudimentary form of agriculture. The tribe most intimately identified with

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<sup>5</sup> *Ibid.*, p. 1.

<sup>6</sup> *Ibid.* W. N. Logan. *Handbook of Indiana Geology*, p. 81.

<sup>7</sup> Indiana State Planning Board, *op. cit.*, p. 1.

<sup>8</sup> Indiana Department of Geology and Natural Resources. *Sixteenth Annual Report*, p. 257.

<sup>9</sup> U. S. Weather Bureau, *Climatological Data*, vol. 45, no. 13, p. 50.

<sup>10</sup> George R. Fox. *Archaeological Map of Indiana*, (Map in Indiana State Library).

Indiana was the Miami. Its territorial claims as laid down by their chief, Little Turtle, during the process of treaty-making at Greenville, Ohio in 1795, embraced the entire State.<sup>11</sup> However, either through unwillingness or inability to enforce their claims, they permitted other tribes to live within or frequent the State. Among these were the Potawatomi, a savage and warlike tribe originally from the region where Chicago now stands. About 1765 the Potawatomi joined forces with the Sacs, Foxes, and Kickapoos in a victorious war against the Illinois Indians;<sup>12</sup> then, pressing eastward and south, and by sheer force of numbers, the Potawatomi crowded out the Miami tribe which then occupied the land between the Wabash River and Lake Michigan.<sup>13</sup> By the year 1800, the Potawatomi were in possession of lands as far east as the Miami-Wabash portage.<sup>14</sup>

The French were the first white people to enter the territory from which Indiana was formed. In the latter part of the seventeenth century they made voyages of discovery and exploration from Canada into the Ohio Country (area north of the Ohio River). These visits were followed by trading and missionary activity among the Indian inhabitants of the region. In the first half of the eighteenth century three French trading posts were established in what is now Indiana: Post Miami, on the present site of Fort Wayne, about 1715; Ouiatenon, on the Wabash, about 4 miles southwest of the present site of Lafayette, about 1719 or 1720; and Vincennes, on the lower Wabash, sometime before March 1733.<sup>15</sup>

In the early part of the eighteenth century the English began to enter the Ohio Valley from the east. The conflicting territorial claims of the English and French nations were climaxed by the French and Indian War, as a result of which the French lost their colonial empire in America. During the American Revolution, George Rogers Clark conquered the Ohio Country, and in 1778 Virginia organized it as the County of Illinois.<sup>16</sup>

<sup>11</sup> American State Papers, *Indian Affairs*, I, 570, 571.

<sup>12</sup> Elmore Barre, *Land of the Miami*, p. 46.

<sup>13</sup> Hiram W. Beckwith, *History of Vigo and Parke Counties*, p. 146.

<sup>14</sup> Frederick Webb Hodge, ed., *Handbook of American Indians North of Mexico*, pt. 2, p. 290.

<sup>15</sup> Oscar J. Craig, "Quiatenon," *Indiana Historical Society Publications*, II, 329. Pierre Georges Roy, "Sieur de Vincennes Identified," *Indiana Historical Society Publications*, VII, 83. M. M. Quaife, "Fort Wayne in 1790," *Indiana Historical Society Publications*, VII, 306. Paul C. Phillips, "Vincennes in its Relation to French Colonial Policy," *Indiana Magazine of History*, XVII, 315.

<sup>16</sup> William W. Henning, *Statutes at Large . . . of Virginia*, vol. 11, p. 552.



In 1781, 1784, 1785, and 1786, New York, Virginia, Massachusetts, and Connecticut ceded to the United States their claims to all the land north of the Ohio River (now Indiana, Illinois, Michigan, Ohio, Wisconsin, and a part of Minnesota). In 1787 Congress organized the area as the Northwest Territory.<sup>17</sup> In 1800 Congress created Indiana Territory, embracing all the area between the present State of Ohio and the Mississippi River, except a small triangular strip now in southeastern Indiana which was added to Indiana Territory in 1802.<sup>18</sup> In 1816 the State of Indiana, with its present boundaries, was admitted to the Union.<sup>19</sup>

The Indian titles to the land comprising Indiana were extinguished by a series of treaties beginning with the Treaty of Greenville in 1795 and ending in 1872 when the last reserve was abolished.<sup>20</sup> The Potawatomi tribe of Indians, which occupied, before the white people, the territory now comprising Fulton County, entered into treaties in 1826, 1832, and 1837 relinquishing their territorial claims to the United States.<sup>21</sup>

#### WHITE SETTLEMENT

The first white men, other than unknown French traders, to enter what is now Fulton County, were the surveyors of the Michigan Road, the first survey of which was completed in 1828.<sup>22</sup> In pursuance of treaty provisions with the Indians, the Government erected a corn mill and a blacksmith shop near the outlet of Lake Manitou in 1826 or 1827; and to operate these came Nathan Rose and Mr. and Mrs. John Lindsey from Ohio. A trading post was established near these mills by J. B. Wyman and a Frenchman named LeClaire in 1828.<sup>23</sup>

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<sup>17</sup> Clarence Edwin Carter, comp. and ed., *Territorial Papers of the United States*, II, 1-12, 22, 39.

<sup>18</sup> U. S. Stat. 2:58, 59, 173-175, 201, 202 (laws of 1800, 1802). George Pence and Nellie C. Armstrong, *Indiana Boundaries, Territory, State and County*, pp. 138-147.

<sup>19</sup> U. S. Stat. 3:289-291, 399, 400 (laws of 1816). Const. 1816, art. 11, sec. 17. Const. 1851, art. 14, secs. 1, 2.

<sup>20</sup> List of the cessions, with a map showing locations. William Henry Smith, *History of the State of Indiana*, I, 181-186.

Text of the treaties. U. S. Stat. 7:49 *et seq.* Charles J. Kappler, *Indian Affairs, Laws and Treaties*, II, 30 *et seq.*

<sup>21</sup> Kappler, *op. cit.*, II, 273, 274.

<sup>22</sup> Barnhart, *op. cit.*, p. 1.

<sup>23</sup> A. L. Kingman, *Historical Atlas of Fulton County, Indiana*, pp. 9, 10.

The building of the Michigan Road, which opened the way for settlers into the then virgin territory of Fulton County, was perhaps the greatest single factor in the settlement of the county. The part of the county which is now Rochester and Rochester Township was the first to become a populous center. In 1831 Judge William Polke, commissioner of that part of the Michigan Road, settled north of Rochester and near where the road crosses the Tippecanoe River. He was followed shortly by James Elliott, William J. Shields, Alexander Bozarth, Henry Hoover, George Caldwell, Stephen Cherry (or Cherry), Michael Shore, Martin Venard, Robert Wiley and others, who came from Ohio and other parts of Indiana via the new road which was then only a trace through the woods and swamps.<sup>24</sup> In 1833 a Mr. McAllister opened a tavern on the new road in what is now Richland Township. Thomas Cowan, William Hall, and Mrs. Cynthia Shepherd, a widow, settled near the road in the same year. In 1832 or 1833 John Fletcher, a cripple, settled near the lake which now bears his name. In 1836 Josiah Terrell, Joseph Terrell, William Biddle, Caleb Stradley, William Whittenberger—all from Ohio—, Dr. Joseph Sippy, Asher Welton, Henry Bristol, Moses Werdon, Uriah Bragg, Nathaniel Coggeshall, and Thomas Clifton and son—all from Virginia—came to that part of the county which is now Henry Township. In 1836 John Burrows located his farmstead south of the present town of Fulton in Liberty Township and is generally conceded as the first resident of that part of Fulton County. The northwest part of the county which now comprises Aubbeenaubbee Township was settled by Gilbert Bozarth, John Mahler, and Jesse Bailey in 1836. In 1837 two brothers, Job Meredith and Peter Meredith, and their nephew, Thomas Meredith, from Ohio, settled in what is now Newcastle Township. Union Township was settled in 1837 by John Troutman, Michael Troutman, Thomas Barnett, Isaac Cannon, Stephen Bruce, Sr., and his two sons, Abraham Bruce and Stephen Bruce, Jr. A number of German settlers made their homes near Kewanna Lake; and by their hard work and thrift became some of Fulton County's most substantial citizens.<sup>25</sup>

Under a Federal law of 1799, settlers of this part of the then Northwest Territory were permitted to buy land at a price of \$2 per acre. Later the price was set at \$1.25 per

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<sup>24</sup> *Ibid.*, p. 9.

<sup>25</sup> *Ibid.*, pp. 18, 32, 35, 42, 51.

acre. The earliest land offices which served Fulton County were located at Crawfordsville, La Port, and Winamac.<sup>26</sup>

#### CREATION AND ORGANIZATION OF FULTON COUNTY

An act of February 7, 1835, effective upon publication, purported to create 14 new counties, one of which was Fulton<sup>27</sup> (named for Robert Fulton).<sup>28</sup> That part of the act devoted to Fulton County read as follows:—"All the territory included within the following boundary shall constitute a county, and be known by the name of Fulton, viz: Beginning at the north west corner of township thirty one north, of range one east, thence east with the line dividing townships thirty one and thirty two north, twenty one miles, thence south with the sectional line, twelve miles to the south east corner of section thirty three in township thirty north, of range four east, thence west five miles, thence south six miles, thence west sixteen miles to the meridian line, thence north with the meridian line eighteen miles to the place of beginning." Preceding the enactment of the 1835 act, the above described area was part of the territory of the counties of Cass and St. Joseph. The insufficiency of the 1835 act being generally recognized, none of the 14 counties was organized until enactment of supplementary local laws. Fulton County was actually organized in 1836 in accordance with a supplementary act of January 23, 1836, effective April 1, 1836.<sup>29</sup>

An act of February 17, 1838 added to Fulton County 9 sections of unorganized territory, to wit, sections 22-27 and 34-36, in township 30 north, of range 4 east.<sup>30</sup> Sections 1-3 and 10-15, immediately north of the 9 sections described above and situated in the same Congressional township, were transferred to Fulton County from Kosciusko County by an act of February 24, 1840 "for the purpose of organizing congressional township schools in said township, and for no other purpose";<sup>31</sup>

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<sup>26</sup> Thomas H. Cannon et al., *History of the Lake and Calumet Region of Indiana*, I, 82, 83.  
Logan Esarey, "Internal Improvements in Indiana," *Indiana Historical Society Publications*, V, 58.

<sup>27</sup> Acts 1834-35 (general), ch. 25, sec. 8. Acts 1835-36 (general), ch. 16. Pence and Armstrong *op. cit.*, pp. 364, 365.

<sup>28</sup> Henry Gannett, *Origin of Certain Place Names in the United States*, p. 133.

<sup>29</sup> Acts 1834-35 (general), ch. 25, sec. 8. Acts 1835-36 (general), ch. 16. Pence and Armstrong, *op. cit.*, pp. 364, 365.

<sup>30</sup> Acts 1837-'8 (local), ch. 61, sec. 70. Pence and Armstrong, *op. cit.*, p. 367.

<sup>31</sup> Acts 1839-40 (local), ch. 208, sec. 1. Pence and Armstrong, *op. cit.*, p. 369.



were transferred to Kosciusko County by an act of 1843;<sup>82</sup> and were transferred to Fulton County by an act of January 13, 1846.<sup>83</sup> Sections 19-22 and 27-34, in township 30 north, of range 5 east, were transferred to Fulton County from Miami County by acts of January 15, 1844<sup>84</sup> and January 13, 1845, the latter act correcting an error in the description in the 1844 act.<sup>85</sup> The above described 30 sections now comprise that part of the area of Henry Township which lies east of a southern extension of the eastern boundary line of Newcastle Township.

At the first county election, held on the second Monday of April, 1836 by Benjamin C. Wilson, special sheriff acting under an order from the Governor, the following officers were elected for Fulton County: John Robbins and Anthony Martin, associate judges of the circuit court; Lot N. Bozarth, clerk and recorder; Samuel C. Sperry, Martin H. Venard, and Michael Shore, county commissioners.<sup>86</sup>

The first meeting of the county commissioners was held in the house of Ebenezer Ward in Rochester on April 11, 1836. Lot N. Bozarth was appointed clerk pro tempore for the present session. The commissioners immediately created three civil townships, Liberty, Rochester, and Richland; and then designated each township as a district for the future elections of county commissioners. Liberty Township comprised that part of the county laying south of twenty-ninth meridian line and north of the southern boundary line of the county. Rochester Township was that part of the county lying between the twenty-ninth and thirtieth meridian lines, Richland Township was that part of the county north of the thirtieth meridian line and south of the thirty-first meridian line. The commissioners ordered the holding of an election for the purpose of electing a justice of the peace and constable for each new township and appointed election inspectors to supervise these elections. The board then adjourned. The following day they met in the same place; appointed William H. Martin and John Davidson to serve as county assessor and county treasurer, respectively, for the year 1836; ordered "That the seal of this county consist of a wafer and paper attached thereto in diamond form . . . "; and decided to accept no pay for the

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<sup>82</sup> Rev. Stat. 1843, ch. 2, sec. 85. Pence and Armstrong, *op. cit.*, p. 371.

<sup>83</sup> Acts 1845-46 (general), ch. 78. Pence and Armstrong, *op. cit.*, p. 375.

<sup>84</sup> Acts 1843-44 (general), ch. 61, sec. 1. Pence and Armstrong, *op. cit.*, pp. 372, 373.

<sup>85</sup> Acts 1844-45 (general), ch. 136, sec. 1. Pence and Armstrong, *op. cit.*, pp. 372, 373.

<sup>86</sup> Barnhart, *op. cit.*, p. 36.

first session. At a subsequent session held at the home of Robert Martin in Rochester, the board appointed overseers of the poor for the various townships; divided the county into road districts; and appointed road supervisors and fence viewers.<sup>37</sup>

#### LOCATING THE COUNTY SEAT

The organization act of 1836, mentioned above, provided that commissioners be appointed from other counties in the State to locate a county seat of justice for Fulton County. Accordingly James Hutchens, of LaPorte County, Erasmus Powell, of Shelby County, Benjamin McCarty, of Porter County, James Stewart, of Carroll County, and Jeremiah Corbally, of Marion County, met at the home of Ebenezer Ward in Rochester on the second Monday of June, 1836 and proceeded to examine the various plats, claims, propositions, and inducements submitted by several proprietors and localities. After careful consideration, the town of Rochester was designated as the county seat.<sup>38</sup> There was a large number of settlers in the vicinity of the county seat, and a number of lots and a cemetery site in Rochester were donated to the county by Lot N. Bozarth, Alexander Chamberlain, Cyrus Taber, and George W. Ewing.<sup>39</sup> The county seat was never removed from Rochester.

#### EARLY COURT SESSIONS

The early sessions of the circuit court beginning in March 1837, were held in the house of Robert Martin in Rochester, and the grand jury used the counting room of James Moore as a meeting place. For each day's services at the first session the jurors received 75 cents and the associate judges received \$2.<sup>40</sup>

#### EARLY COUNTY FINANCE

The costs of government were met by taxation and license fees. The commissioners ordered "that the percentum assessed for State purposes for the year 1836 be five cents on each

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<sup>37</sup> Commissioners' Record, vol. A, pp. 1-5, *see* entry 2.

<sup>38</sup> Barnhart. *op. cit.*, pp. 34, 38.

<sup>39</sup> Commissioners' Record, vol. A, pp. 8, 9, 11, 12, *see* entry 2.

<sup>40</sup> *Ibid.*, pp. 26, 28.

hundred dollars and in proportion for a greater or less sum. . . . That there be a poll tax assessed on each individual able to pay a poll tax the sum of fifty cents for State purposes and that twelve and one half cents of each poll be reserved for school purposes. . . . That five percentum of the gross amount of revenue collected for State purposes be set apart for the use of common schools." Two cents on each one \$100 of taxable property was assessed to be used for road purposes, 40 cents for use as county purposes, and each person liable for a poll tax was assessed the sum of 75 cents for use as county purposes. On the sale of foreign merchandise a fee of \$10 was assessed on the first \$1,000 of merchandise, and \$5 was assessed on each additional \$1,000.<sup>41</sup> Caldwell and Bozarth were licensed to vend foreign and domestic groceries in Rochester for one year upon the payment of \$25.<sup>42</sup> It was ordered "That the sum of fifteen dollars be levied as a tax on each license hereafter issued for keeping each tavern in said county, and each other establishment for retailing Spirituous Liquors in said county."<sup>43</sup> Bills against the county were paid by issuing orders which were redeemed by the county treasurer.<sup>44</sup>

#### CREATION OF ADDITIONAL TOWNSHIPS

With the increase in population in all parts of Fulton County resulting from the removal of the Indians from the county and the opening and improvement of the Michigan Road,<sup>45</sup> the following additional townships were created: Henry, February 26, 1838, from territory taken from the east end of Rochester Township; Wayne, August 27, 1838, from the west end of Liberty; Union, August 27, 1838, from the western part of Rochester Township; Newcastle, February 26, 1839, from the eastern half of Richland; and Tippecanoe (name later changed to Aubbeenaubbee), March 8, 1842, from territory of Union.<sup>46</sup> No townships were created since February 26, 1839.

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<sup>41</sup> *Ibid.*, pp. 6, 7.

<sup>42</sup> *Ibid.*, p. 13.

<sup>43</sup> *Ibid.*, p. 65.

<sup>44</sup> *Ibid.*, vol. B, p. 370.

<sup>45</sup> Barnhart. *op cit.*, p. 59.

<sup>46</sup> Commissioners' Record, vol. A, pp. 102, 101, 115, 132, 331; vol. B, p. 107, *see* entry 2.

## AGRICULTURE

The first settlers of Fulton County found the county with the exception of the southeastern and southwestern corners, covered with a thick growth of timber which it was necessary to clear before the land could be farmed. This timbered country was interspersed with prairies and, in the southern corners of the county, with marsh land.<sup>47</sup>

Principal crops grown by the early settlers were corn and wheat much of which was ground in the mill established by the Government for use of the Indians and which after their removal was used by the settlers. Beans and potatoes were among the early crops produced in the county. Pork and other farm produce was hauled in wagons to Logansport, and wheat to Michigan City. Due to transportation difficulties, the price of flour at one time reached \$10 per hundredweight.<sup>48</sup> Wheat sold at 30 to 50 cents per bushel and corn from 10 to 12 cents, delivered over long muddy roads.<sup>49</sup>

After clearing the dense growths of oak, hickory, and other varieties of trees, the ground was prepared for crops by the use of the jumping plow or breaking shovel. Corn, wheat, oats, clover, flax, and garden and field vegetables produced excellent crops in the sandy soils of the western part of the county. A part of this area contained large tracts of meadow which produced a superior quality of grass as well as timothy hay. Fruits, especially the apple, produced well; and cranberries and whortleberries grew spontaneously.<sup>50</sup> The many typed sandy loam soils and the 5 percent muckland area of the county allow the farmer a varied crop program.<sup>51</sup>

An attempt to organize an agricultural society was made in June 1839. A meeting was called, and Robert Martin proceeded to collect the agricultural statistics of the county. Lot N. Bozarth, then Clerk-Recorder was allowed the sum of \$4 "for two days making out a blank book for to enter the agriculture statistics...."<sup>52</sup> Existing records fail to state the outcome of this effort at agricultural organization.

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<sup>47</sup> Barnhart. *op. cit.*, pp. 19, 58, 135, 136.

<sup>48</sup> *Id.*, pp. 59, 108.

<sup>49</sup> John B. Connor. *Agricultural Resources and Development of the State*, p. 5.

<sup>50</sup> Marguerite Miller. *Home Folks*, II, 9. Vernon Gould, "Drift formations in Fulton County," *Indiana State Board of Agriculture Report, 1862-1867*, pp. 574, 578.

<sup>51</sup> Indiana State Planning Board, *op. cit.*, p. 2.

<sup>52</sup> Commissioners' Record, vol. A, pp. 198, 213, 216.



In 1857 a county agricultural society was organized; a 2 acre fairground was leased near Rochester; and a fair held by the society netted a profit of \$225.40. Fairs were held each year until 1865, when financial difficulties resulted in the disbandment of the organization. In 1868 a reorganized society, operated on the stock plan and known as the Fulton County Agricultural and Mechanical Society, began operation of a county fair which was still in existence as late as 1883. County fairs have been held ever since 1883, except 1913 and 1918, by several fair and agricultural organizations.<sup>53</sup>

A county agricultural agent, under supervision of Purdue University, was appointed in 1923; farmers institutes were held; and many experiments in poultry, crops, dairying, soils, and Boys' and Girls' clubs were conducted. All of this tended toward the betterment of the farm population of Fulton County. Agricultural extension work under Purdue University began as early as 1918.<sup>54</sup>

Though the original homestead price of farm land was only \$1.25 per acre,<sup>55</sup> land was being sold for prices as high as \$3 per acre by the fall of 1836.<sup>56</sup> Land prices have slowly but steadily increased since 1836. In 1940 the 1,967 farms of the county contained 218,919 acres or 93.2 percent of the total area of the county; the value of improved farms was \$11,931,643; and implements and machinery were valued at \$1,048,488. In 1939 the county harvested 48,040 acres of corn, 9,343 acres of oats, 8,778 acres of wheat, 5,198 acres of rye, 25,521 acres of hay (which included clover, timothy, and alfalfa), 752 acres of Irish potatoes, 46 acres of barley, and 25 acres of popcorn.<sup>57</sup>

Stock raising and dairying has also proven a valuable adjunct to farming. In 1939 the 21,937 cows in the county produced 5,570,261 gallons of milk. There were 28,773 hogs and 169,800 chickens in the county on April 1, 1940.<sup>58</sup>

## INDUSTRY AND COMMERCE

Though primarily an agricultural county since its organ-

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<sup>53</sup> Kingman, *op. cit.*, p. 14. Information obtained from Hugh Barnhart, coeditor of *Rochester News-Sentinel*, on February 10, 1942, by Harry Graves.

<sup>54</sup> Barnhart, *op. cit.*, pp. 103-105.

<sup>55</sup> Cannon, *op. cit.*, pp. 82, 83.

<sup>56</sup> Commissioners' Record, vol. A, p. 58. *see entry 2.*

<sup>57</sup> U. S. Bureau of the Census, *Sixteenth Census of Agriculture, Indiana, 1940*, pp. 12, 56.

<sup>58</sup> *Ibid.*, pp. 36, 42.

ization, the county has had many flourishing industries. The first of these was the mill and forge erected near the north shore of Lake Manitou by the Government for the service of the Indians, near which was later established a trading post,<sup>59</sup> a saw mill, and a grist mill. This grist mill, which was placed in operation in 1835 by Alexander Chamberlain and Robert B. Stevenson, later became known as "The Pottawatomie Mill." It was in operation as late as 1883. In 1835 Chamberlain built a hotel and tavern in the town of Rochester, and operated it until his death in 1872.<sup>60</sup>

In 1839 a forge was erected on Mill Creek northwest of Rochester by James Moore and James McColm. Bog iron ore was obtained from the beds and marshes of the county, which when smelted was pronounced superior to Pittsburgh iron. An abundant supply of wood furnished the charcoal necessary to heat the forge. This forge was removed to a site on the Tippecanoe River near the crossing of the Michigan Road in 1846, and continued in operation by various owners until 1855.<sup>61</sup> A sawmill was erected on Yellow Creek in Henry Township by Job Meredith in 1839, and milling continued there until about 1880.<sup>62</sup>

The hotels known as the Central House and Wallace House were built in Rochester during the years 1840-43.<sup>63</sup>

On account of the long delays caused by the rush of business at the mills near Rochester, following the first few years of settlement, the pioneers of Henry Township hauled their grain to Goshen, Indiana for milling, a distance of 50 miles over almost impassable roads. Henry Hoover, for whom Henry Township was named, built a flour mill on Mill Creek in 1840 and operated it for 10 years. After passing into other hands, the mill continued in existence until 1883.<sup>64</sup> Another flour mill was established on Mill Creek by Hamilton and Taber and Anthony F. Smith in 1846. These were soon followed by other industries: A sawmill owned by Samuel Hedge, Henry Township, 1847; tannery, owned by Daniel Shoemaker, Akron, 1849; sawmill, owned by John Kendall, Henry Township, 1852; and a flour mill, owned by Ambrose Meredith, 1852.<sup>65</sup>

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<sup>59</sup> Kingman, *op. cit.*, p. 9.

<sup>60</sup> *Ibid.*, pp. 20, 21.

<sup>61</sup> *Ibid.*, p. 10.

<sup>62</sup> *Ibid.*, p. 20.

<sup>63</sup> *Ibid.*

<sup>64</sup> *Ibid.*, p. 36.

<sup>65</sup> *Ibid.*, pp. 10, 21, 36.

In 1868 the first steam elevator to handle the grain produced in Fulton County was built in Rochester by Harter and Davis and was in operation as late as 1883.<sup>66</sup>

In Rochester in 1883 there were 2 lumber yards, 11 dry-goods stores, 4 drug stores, 4 hardware stores, 20 wagon and carriage shops, 2 furniture warehouses, and a number of grocery stores and restaurants. In Kewanna the same year there were 3 general merchandise stores, 2 hotels, 2 drug stores, 1 hardware store, 1 furniture and undertaking establishment, 1 boot and shoe store, 2 restaurants, 1 clothing store, 1 book and jewelry store, 1 meat market, 1 livery stable, 1 planing mill, and a flour mill.<sup>67</sup>

The most important factory in the county is located in Rochester. Engaged in the manufacture of cheese, it employs a number of employees throughout the year. A canning factory at the county seat also employs many Rochester residents during the canning season. A hardware specialty factory in Akron employs about 85 people throughout the year and about 100 during its busy season. A sawmill near Akron employs about 25 persons. About 6 pickle stations and a number of milk depots in the county furnish employment to many of the county's residents.<sup>68</sup>

The growth of manufacturing and employment in Fulton County has been marked by no "booms" or marked "declines," with the exception of the depression years beginning with 1930. In 1939 the county contained 258 retail stores (116 of which were in Rochester), 58 food stores, 3 general stores with food, 7 general merchandise stores, 9 clothing stores, 10 furniture stores, 13 automotive supply stores, 58 filling stations, 25 lumber and hardware stores, 36 eating places, 7 drug stores, and 32 other stores of various kinds. Total sales for the year were \$3,935,000.<sup>69</sup>

Assessed real estate valuation for the county for 1940 totaled \$14,096,600, with mortgage exemptions of \$1,159,340 and soldiers exemptions of \$24,360.<sup>70</sup>

#### ROADS AND TRANSPORTATION

The Tippecanoe River and the creeks of Fulton County have

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<sup>66</sup> *Ibid.*, pp. 21, 55.

<sup>67</sup> *Ibid.*

<sup>68</sup> Indiana State Planning Board. *op. cit.*, pp. 9, 10.

<sup>69</sup> U. S. Bureau of Census, *Sixteenth Census, 1940, Retail Trade*, pp. 10, 11.

<sup>70</sup> Yr. Bk. 1940, p. 71.

always been too shallow for navigation. The early settlers used the dim trails of the Indian or hewed roads through the dense growth of timber which then covered that part of Indiana.<sup>71</sup> The right-of-way for Michigan Road, a strip of land 100 feet wide from Lake Michigan to the Wabash River was secured by treaty from the Potawatomi Indians through the efforts of Governor James B. Ray. Michigan Road was the first highway of note to traverse the county.<sup>72</sup> On January 24, 1828 the State Legislature appointed John McDonald of Daviess County, Chester Elliott of Warrick County, and John I. Neely of Gibson County as commissioners to survey and mark the road from Lake Michigan to Indianapolis.<sup>73</sup> William Polke, a resident of Knox County, was appointed as a commissioner to sell the lands alongside the road in 1830; and to better carry out his duties he moved to Fulton County and became one of its pioneer residents.<sup>74</sup> Mr. Polk let contracts for the building of the 102 miles of road from Logansport to Lake Michigan at an average bid of \$237.50 per mile.<sup>75</sup> Funds for road building were raised by sale of lands along the right-of-way.<sup>76</sup> Early mails were brought to residents of the county by a 4-horse stage line operating on this road between Logansport and South Bend.<sup>77</sup>

At its first session, in April 1836, the board of county commissioners created three road districts.<sup>78</sup> At its session of June 1836 the board received a petition requesting the location of a road beginning at the southwest corner of section 24, in township 31 north, of range 1 east, and extending "on the nearest and best ground until it strikes the center of the southeast quarter of section 36, in township 31 north, of range 2 east, thence due east on the most suitable ground until it passes Judge Robbins' house and strikes the bluff of Mill Creek, thence up the bluff of said creek on the south side until it strikes the Michigan Road at Rochester in said county." William Moore, Jesse Burzan, and William Spencer were appointed "to view and mark said road and make return

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<sup>71</sup> Barnhart, *op. cit.*, p. 58.

<sup>72</sup> Kappler, *op. cit.*, p. 274.

<sup>73</sup> Acts 1827-28, ch. 70, sec. 1.

<sup>74</sup> Kingman, *op. cit.*, p. 9.

<sup>75</sup> Ethel Montgomery, *Building of the Michigan Road*, p. 21.

<sup>76</sup> *Ibid.*, p. 31.

<sup>77</sup> Daniel McDonald, *Twentieth Century History of Marshall County, Indiana*, p. 358.

<sup>78</sup> Commissioners' Record, vol. A, p. 4, see entry 2.



of their proceedings to the next meeting of this board."<sup>79</sup> This being done, the road was constructed, thus inaugurating the building of county roads in Fulton County. By the turn of the century there were nearly 400 miles of improved gravel, stone, and hard surfaced county roads in Fulton County.<sup>80</sup>

Each male citizen between the ages of 21 and 50 years was required to perform labor on the roads of the county unless excused because of physical handicap.<sup>81</sup> This provision was abandoned in 1919 when the county and townships assumed care of the roads with hired employees.<sup>82</sup> In 1932 all township roads were transferred to the county road system.<sup>83</sup> In 1935 the county contained the following roads: U. S. Highway 31, which traverses the county from north to south; State Highway 25, which enters the county from the south and runs northeast through Fulton and Rochester; State Highway 14, which enters the county from the east, passing through Akron and west through Rochester to the county line; and 762 miles of county roads (consisting mainly of gravel construction, with several miles of concrete, considerable blacktop construction, and 75 miles of unimproved roads). Practically all rural residents have access to markets over a well maintained system of roads.<sup>84</sup>

The need of rail transportation in Fulton County was not officially recognized until the fall of 1864. The county commissioners at the December session of that year voted to donate the sum of \$50,000 to secure "the speedy construction and completion of a railroad through said Fulton County which shall connect the town of Rochester in said county with Plymouth in Marshall County and Peru in the county of Miami." It was further specified that trains were to be in operation on the road by June 1, 1866.<sup>85</sup> A meeting of the citizens of the county decided that this sum was inadequate for the purpose intended, and on June 9, 1865 the commissioners increased the amount to \$60,000.<sup>86</sup> A contract was entered into by the

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<sup>79</sup> *Ibid.*, p. 7.

<sup>80</sup> Barnhart, *op. cit.*, p. 61.

<sup>81</sup> Rev. L. 1831, ch. 82, sec. 35. Rev. Stat. 1838, ch. 91, sec. 24. Rev. Stat. 1843, ch. 16, secs. 101, 102. 1 Rev. Stat. 1852, ch. 102, secs. 1-13. Acts 1881 (Spec. Sess.), ch. 63, secs. 3, 27. Acts 1913, ch. 329, secs. 1-9. Commissioners' Record, vol. A, pp. 29, 200, *see* entry 2.

<sup>82</sup> Acts 1919, ch. 107.

<sup>83</sup> Acts 1932 (Spec. Sess.), 1933; Burns 36-901 to 36-904; Baldwin 8711 to 8714.

<sup>84</sup> Indiana State Planning Board, *op. cit.*, p. 9.

<sup>85</sup> Commissioners' Record, vol. E, pp. 75, 73, *see* entry 2.

<sup>86</sup> *Ibid.*, pp. 167-169.

county and the Indianapolis, Rochester, and Chicago Railroad Company. The date specified for completion of the work was January 1, 1867, but the road was not completed until 1868, at which time its name had been changed to the Indianapolis, Peru, and Chicago Railroad Company. It was the county's first railroad and was owned by the Wabash Railroad for a short time. Later this line was owned by the Lake Erie and Western, the New York Central Lines, and the Nickle Plate.<sup>87</sup>

The second steam railroad to enter the county was the Chicago and Atlantic Railroad. The townships through which it was to run furnished aid as follows: Richland, \$9,240, Aubbeenaubbee, \$5,200, Union, \$8,000, Rochester, \$32,600, and Henry, \$11,500.<sup>88</sup> This road was completed in June 1882. It was soon known as the Chicago and Erie, and later as the Erie. It serves Akron, Rochester, and Leiters Ford.<sup>89</sup>

The Terre Haute and Logansport Railroad entered the county in 1884 and was completed to South Bend in 1885. It became a part of the Vandalia System and later was operated by the Pennsylvania Railroad Company. Passing through the western part of the county, it serves Kewanna, Delong, and Grass Creek.<sup>90</sup>

The Cincinnati, Indianapolis, and Muncie Railroad was constructed through the townships of Union and Liberty in 1902, later becoming the property of the Chesapeake and Ohio. It has aided materially the development of the southern and western parts of Fulton County and the towns of Fulton and Kewanna.<sup>91</sup>

A traction line known as the Winona Interurban began operating in the county in 1910. It furnished connection with Goshen, Indianapolis, and South Bend. In 1939 it carried 111,370 passengers and showed a gross revenue of \$157,447.<sup>92</sup> Bus lines and trucks furnish Fulton County residents with excellent travel and freight facilities over a system of Federal, State, and county highways.

#### SCHOOLS AND LIBRARIES

To secure an education in the pioneer days, the student

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<sup>87</sup> Barnhart, *op. cit.*, p. 66.

<sup>88</sup> *Ibid.*, p. 67.

<sup>89</sup> *Ibid.*, pp. 67, 68.

<sup>90</sup> *Ibid.*

<sup>91</sup> *Ibid.*

<sup>92</sup> Yr. Bk. 1940, *op. cit.*, p. 734. Barnhart, *op. cit.*, p. 69.

was often required to undergo great hardship. Schools were conducted in the homes of the settlers or any other available buildings. These were often built of logs or sawed planks, with a fireplace to furnish heat and oiled paper to cover the openings left as windows. Roughly hewed slabs were the writing desks, and often there was no floor but the bare earth.<sup>93</sup>

Probably the first school in the region which became Fulton County was opened by Jacob Bozarth in 1834. It was located within the present limits of Rochester and in one of the early log cabins of that community. Ebenezer and John Ward were early teachers in this school. During 1839 and 1840 a school was conducted in the upper rooms of the courthouse by Hugh Miller. The following year a frame schoolhouse was erected in Rochester which was used for almost a decade. The average number of pupils enrolled was about 200 per term.<sup>94</sup>

In 1838 a log cabin schoolhouse was erected on the farm of Asher Welton in Henry Township which served both as a school and church for residents of that part of the county. William Culver, a young man from Medina County, Ohio was the first teacher. During 1840 a school taught by John Whittenberger, was erected on the farm of Daniel Whittenberger. In the same year another school, taught by a Mr. Thompson, was erected on the farm of John Bright.<sup>95</sup> During 1840 the residents of the western part of the county erected a schoolhouse near the present site of Kewanna.<sup>96</sup> About 1843 or 1844 a schoolhouse was erected on the farm of Lewis Pratt, in Aubbeenaubbee Township; and 3 years later two other schools were built in the same township.<sup>97</sup> In 1836 or 1837 David Shore conducted a school in the house of his father in Richland Township. The following year a schoolhouse of round logs was erected by the settlers on the farm of Abial Bush, near the Michigan Road.<sup>98</sup> These early schools were supported by subscription of the students parents, when the small sums allotted for this purpose by the various townships proved inadequate.<sup>99</sup> Other sources of funds were proceeds

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<sup>93</sup> Kingman, *op. cit.*, p. 14.

<sup>94</sup> Commissioners' Record, vol. A, pp. 173, 239, *see* entry 2. Barnhart, *op. cit.*, p. 86.

<sup>95</sup> Kingman, *op. cit.*, p. 36.

<sup>96</sup> Barnhart, *op. cit.*, p. 83.

<sup>97</sup> Kingman, *op. cit.*, p. 32.

<sup>98</sup> Barnhart, *op. cit.*, p. 91.

<sup>99</sup> Kingman, *op. cit.*, p. 36.

of sale of lands reserved for school purposes,<sup>100</sup> fines, license fees, statutory penalties, leases of school lands,<sup>101</sup> poll tax,<sup>102</sup> and proceeds of the sale of timber from the school lands. An incident is recorded whereby 71 trees were cut and appropriated by unscrupulous residents in one township. This was discovered and the parties concerned were forced to repay the amounts they had received for the stolen property.<sup>103</sup>

There was no regular course of study laid down by the early schools of Fulton County. The pupils brought with them such books as they chanced to have. Spelling, reading, writing, arithmetic, geography and occasionally, grammar were taught. Physiology and United States history had not then found a place in the county schools. To become a teacher one had to be able to read and write, and instances are on record where teachers were appointed because they were good penmen.<sup>104</sup> A school commissioner was appointed by the county commissioners to manage the schools.<sup>105</sup> He in turn appointed examiners to examine the students' work. John B. Ward was one of the first school commissioners appointed in Fulton County. He received an annual salary of \$25. Anthony F. Smith was the first seminary trustee appointed.<sup>106</sup> Existing records fail to show just when a county seminary was established, though records of the county clerk show sums collected by fines were devoted to its use in 1840.<sup>107</sup>

The first high school was established in Rochester in 1874. William J. Williams was the superintendent at that time, six students were the first graduating class of 1878.<sup>108</sup>

The system of consolidating the schools of each township was begun in 1907. In the school year 1920-21 the twelve consolidated schools and eight high schools in the county, conducted by a staff of 147 teachers, had an enrollment of 3,089 elementary school pupils and 742 high school pupils. Expenditures for that year were \$105,957.20 from the tuition

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<sup>100</sup> Commissioners' Record, vol. A, p. 6, *see* entry 2.

<sup>101</sup> See the section entitled "Education" in the essay entitled "Governmental Organization and Records System."

<sup>102</sup> Commissioners' Record, vol. A, p. 237, *see* entry 2.

<sup>103</sup> Barnhart, *op. cit.*, p. 83.

<sup>104</sup> Kingman, *op. cit.*, p. 14.

<sup>105</sup> Commissioners' Record, vol. A, p. 237, *see* entry 2.

<sup>106</sup> *Ibid.*, pp. 30, 255.

<sup>107</sup> *Ibid.*, pp. 286, 287.

<sup>108</sup> Barnhart, *op. cit.*, pp. 97, 100.



fund and \$128,326.97 from interest on the common school fund.<sup>109</sup> Twenty years later the enrollment for the entire county was 3,330 (including 903 in Rochester). The sum of \$258,043.84 (including \$67,088.29 spent by Rochester) was expended for instruction, operation, maintenance, and other activities in connection with the schools during 1940.<sup>110</sup>

Rochester Normal University, established in Rochester in 1895, was a preparatory school for those desiring to attend college or university. Its faculty of 11 instructors, using the high school classrooms and laboratory, taught advanced courses in science, history, literature, language, mathematics, forensics, civics, and oratory. This institution went out of existence shortly after 1909.<sup>111</sup>

As early as 1838 the treasurer's records of Fulton County show moneys collected for a county library.<sup>112</sup> Just when this library was established and what volumes were included in it are unknown. Records show that John Douglass was appointed librarian of Fulton County in January 1849, in place of William K. Logan, resigned.<sup>113</sup>

The Rochester-Fulton County Library owes its existence to the Woman's Club of Rochester. This organization, realizing the need of a library in the county, met in the fall of 1903 and sent a member to Indianapolis to secure information. Following a number of meetings of the organization with representatives of the schools and the Rochester Township Advisory Board, the use of the grand jury room in the courthouse was secured for a library, and Miss Iva Etta Sullivan became the first librarian. In March 1904 Andrew Carnegie, through the library foundation of his name, gave the project \$10,000 and later an additional \$3,000. A library building was built and occupied in 1907. An additional bequest of \$3,000 from a local physician made it possible to add materially to the number of books. The county commissioners took over the library as a county library in 1921, and service was extended by truck to all townships except Union and Henry, which were maintaining libraries. From an original 500 books, the

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<sup>109</sup> Yr. Bk. 1920, p. 655.

<sup>110</sup> Yr. Bk. 1940, *op. cit.*, pp. 994, 1012, 1014, 1022.

<sup>111</sup> Fassett A. Cotton, *Education in Indiana (1793 to 1934)*, pp. 580, 581. Information obtained from Hugh Barnhart, coeditor of *The Rochester News-Sentinel*, on December 27, 1941, by Harry Graves.

<sup>112</sup> Commissioners' Record, vol. A, pp. 166, 193, *see* entry 2.

<sup>113</sup> *Ibid.*, vol. B, p. 234.

library had increased to over 11,000 volumes by 1923, the total estimated circulation in that year being 75,000.<sup>114</sup>

The Kewanna Public Library was organized in 1905. In 1914 Kewanna's first library building was completed at a cost of \$8,000. By 1923 it contained 3,179 volumes and had a circulation of 9,594 in Union Township.<sup>115</sup> The Akron Public Library was organized in 1912, and a library building costing \$12,500 was erected in 1915. Assistance is received from the Carnegie foundation.<sup>116</sup> By 1923 the library contained 3,441 volumes and had a total circulation in Henry Township of 10,335.<sup>117</sup>

### NEWSPAPERS

In December 1850 John Q. Howell purchased a printing press which he brought to Rochester by wagon to establish the first newspaper published in Fulton County. Unable to find suitable quarters in the town<sup>118</sup> he rented the middle room on the south side of the county courthouse, for which he paid \$1.50 per month.<sup>119</sup> Howell began publication of the *Rochester Star*, which name he later changed to the *Rochester Flag*. John H. Scott purchased the *Flag* from Howell but later the two became joint owners. In 1857 Pershing and Corothers bought the *Flag* and changed the name to the *Fulton Chronicle*. After changing hands several times the paper became known as the *Union Spy* and was published by Charles Shyrock. The *Spy* changed ownership a number of times and was sold to W. H. Mattingly and I. M. Mattingly, who changed the name to the *Rochester Republican*. The paper has had many owners and was published in Rochester until 1924.<sup>120</sup> To make public their political views, a group of Democratic residents of Fulton County subscribed to stock in a paper which they called the *Rochester Sentinel*. Established in 1857, this paper was sold to Archibald McDonald who published the *Sentinel* until the outbreak of the Civil War, when Isaiah Walker became its owner. After

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<sup>114</sup> Barnhart, *op. cit.*, pp. 105, 107.

<sup>115</sup> *Ibid.*, p. 107.

<sup>116</sup> Yr. Bk. 1940, *op. cit.*, p. 710.

<sup>117</sup> Barnhart, *op. cit.*, p. 108.

<sup>118</sup> Kingman, *op. cit.*, p. 20.

<sup>119</sup> Commissioners' Records, vol. B, p. 413, *see* entry 2.

<sup>120</sup> Barnhart, *op. cit.*, pp. 116, 117. Information obtained from Hugh Barnhart, coeditor of The *Rochester News-Sentinel*, on December 27, 1941, by Harry Graves.

several changes of ownership, the paper became known as the *Standard* and later as the *City Times*. Platt McDonald purchased the paper in 1870, and immediately changed the name back to the *Sentinel*. In 1872 it became the property of A. T. Bitters, who published the *Sentinel* for several years until his appointment as postmaster of Rochester, when he sold the paper to Henry A. Barnhart.<sup>121</sup> The paper passed into the hands of Hugh A. Barnhart in 1924 and was consolidated with the *Rochester Daily News* shortly thereafter. Under the name the *Rochester News Sentinel* it is still published daily in Rochester.<sup>122</sup> The *Fulton County Sun* began publication in Rochester about 1913 as a weekly. It was sold in 1922 to Earl Sisson and Glen Rouch who began publication of the paper as a daily of Republican leanings.<sup>123</sup>

Other newspapers published in the county seat were the *Rochester Tribune*, a Republican paper founded in 1882 by Major Bitters, and the *Exponent*, a Democratic sheet, founded the following year by S. F. Chandler.<sup>124</sup>

The *Kewanna Times* was started in 1870 by J. C. Phillips and Eli Leiter. Issued once every two weeks, its existence was little more than one year. A paper called the *Pilot* was the next to be published in Kewanna. Like its predecessor, it was short lived. The *Kewanna Herald* was established in 1883 by W. D. Pratt. After passing through the hands of many owners it was finally bought by Frank P. Gould in 1915. Gould has owned the *Herald* three times previously. The paper is still in publication as a weekly.<sup>125</sup> The *Kewanna Post*, a weekly newspaper, began publication in 1876.<sup>126</sup> An eight page newspaper, the *Saturday Evening Post*, was in existence in Kewanna as early as December 1863, and may have been the predecessor of the *Kewanna Post*. Records of the early newspapers of Kewanna were destroyed by fire.<sup>127</sup>

The *Akron Echo*, a newspaper edited by Frank Brown, began publication in Akron in 1886. The paper was short lived and

<sup>121</sup> Kingman, *op. cit.*, p. 20.

<sup>122</sup> Information obtained from Hugh Barnhart, coeditor of The *Rochester News-Sentinel*, on December 27, 1941, by Harry Graves.

<sup>123</sup> Barnhart, *op. cit.*, p. 120.

<sup>124</sup> Kingman, *op. cit.*, p. 20.

<sup>125</sup> Barnhart, *op. cit.*, pp. 118, 119.

<sup>126</sup> Winifred Gregory, ed., *American Newspapers, 1821-1936*, p. 154.

<sup>127</sup> Information obtained from W. H. Myers, editor of the *Kewanna Herald*, 13, 1942, on February by Harry Graves.

suspended publication in 1890. In the latter part of that year the paper reopened with the name *The Fulton County News*, destroyed by fire in August 1892, the paper was reestablished as the *Akron News* the following month; and after passing through the hands of several owners is still being published as a weekly paper serving residents of the vicinity of Akron.<sup>128</sup>

The *Fulton Leader* was established in Fulton in 1901.<sup>129</sup> Republican in leaning, it is still published as a weekly serving the residents of Liberty Township and surrounding territory.<sup>130</sup>

The *White Breeders' Companion*, a magazine devoted to the interests of breeders of Chester White hogs, was started in the county by F. F. Moore on March 1, 1910. The name was changed in 1915 to the *Chester White Journal*. It is still being published in Rochester as a monthly magazine.<sup>131</sup>

#### WELFARE ASSISTANCE

An early act of the General Assembly provided for maintenance of persons who became public charges in private homes at the expense of the public, and overseers of the poor were charged with "farming out to the lowest bidder" the care of those unfortunate enough to depend on public charity.<sup>132</sup>

In an entry of September 3, 1845 it was ordered "that William Runnels be allowed \$2.18 for burying clothes furnished for Hezekiah Aken, deceased," who was under charge of the overseers of the poor, and "that Samuel Rodefer be allowed \$6 for making one coffin for said Aken, deceased," and that "Dr. Henry W. Mann be allowed \$6.50 for medicine and attention to said deceased during his last sickness."<sup>133</sup>

A county "poor farm" was purchased in 1871. Located about 1 mile south of Rochester and alongside the Michigan Road, it consisted of 178 acres of good farmland.<sup>134</sup> A one-story frame building was erected the same year to serve as an infirmary, and the county auditor was directed to advertise

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<sup>128</sup> *Ibid.*, p. 145. Barnhart, *op. cit.*, p. 119.

<sup>129</sup> Gregory, *op. cit.*, p. 150.

<sup>130</sup> Barnhart, *op. cit.*, p. 119.

<sup>131</sup> *Ibid.*, pp. 119, 120. *Directory of Newspapers and Periodicals 1941*, p. 286.

<sup>132</sup> Acts 1817-18 (general), ch. 14, sec. 3. Rev. L. 1831, ch. 69, sec. 4, Rev. Stat. 1838, ch. 79, sec. 3. Rev. Stat. 1843, ch. 19, sec. 6. 1 Rev. Stat. 1852, ch. 81, sec. 7. Commissioners' Record, vol. C, p. 478, *see* entry 2.

<sup>133</sup> Commissioners' Record, vol. A, p. 646.

<sup>134</sup> *Ibid.*, vol. F. (June 1871), *see* entry 2.



and receive bids from those desiring the position of superintendent of the poor farm.<sup>135</sup> Mark Moore proposed "to give for rent of Poor Farm, one year, \$300; corn in the crib, 25 cents per bushel; hay in the mow, \$40; and for seventeen acres sown in wheat, \$40; to keep paupers at \$2.50 per week, provided the county furnish the necessary furniture, bedding and clothing for the paupers." Moore's proposition was accepted and he became the first infirmary superintendent.<sup>136</sup> The present brick building, which serves as a County Infirmary, was erected in 1876 at a cost of \$8,000,<sup>137</sup> and extensive repairs were made in 1934 and 1935 by the county with cooperation of the Works Progress Administration. During 1935 the infirmary had 31 inmates. Capacity is 40.<sup>138</sup>

Welfare of the county's poor and infirm has long been a concern of the county commissioners. Many exemptions were made of poll tax payments, and many sick or infirm citizens were excused from labor on the roads according to early records.<sup>139</sup> During Civil War days many orders were issued to assist wives or widows of the soldiers.<sup>140</sup> With the arrival of the 1930's and the era of widespread industrial and agricultural depression, the townships found it an impossibility to care for all the needy, and in 1933 Federal aid began to supplement the direct relief of the townships with a program of work relief, conservation, building aid, and welfare payments.<sup>141</sup>

## HEALTH AND RECREATION

General health conditions in Fulton County are good. From July 1, 1939 to June 30, 1940, there were only 8 cases of scarlet fever, 3 of smallpox, 2 diphtheria, and 4 of tularemia in the county. There were 274 births as against 191 deaths in 1939. Akron, Kewanna, and Rochester are supplied with water from deep tubular wells which are regularly inspected by the Indiana State Board of Health. A county medical association was organized November 16, 1903 and is

<sup>135</sup> Kingman, *op. cit.*, p. 13.

<sup>136</sup> Commissioners' Record, vol. F (March 14, 1871), *see* entry 2.

<sup>137</sup> *Ibid.*, vol. G (December 5, 1876), *see* entry 2.

<sup>138</sup> Indiana State Planning Board, *op. cit.*, p. 15.

<sup>139</sup> Commissioners' Record, vol. B, pp. 209, 231, 404, *see* entry 2.

<sup>140</sup> *Ibid.*, vol. E, pp. 60, 64, 65.

<sup>141</sup> See the essay entitled "County Department of Public Welfare,"

still in existence. Woodlawn Hospital, a 31-bed privately owned hospital in Rochester, has served the entire county since 1905. Fulton County has had a county health officer ever since 1881; had a county board of health from 1881 to 1909; and has never had a county hospital or a public health nurse.<sup>142</sup>

Recreational activities of the county include boating, swimming, and fishing in the many lakes which dot the surface of the county, chief of which is Lake Manitou. Over 900 cottages and eight hotels are located on the shore of this lake. A Federal fish hatchery is located on the north shore. The city of Rochester maintains a 20 acre playground and park west of the city, where amusement devices for children, baseball diamonds, croquet courts, and picnic grounds are located. The town of Akron also maintains a lighted baseball diamond for night games as well as equipped playgrounds at the public schools.<sup>143</sup>

#### RELIGION

The year 1836 marks the beginning of church services of the Methodist church in Fulton County. Anthony Martin, one of the first settlers in the Rochester area, held Methodist services in his home and later in the courthouse. Assisted by other circuit preachers, Rev. Martin brought about the organization of a church in Rochester and a frame church building was erected near Main and 6th Streets in 1840.<sup>144</sup> In Henry Township the first Methodist service was conducted by Rev. Carey from Rochester. The first meetings were held in the log house of Asher Welton and later in the schoolhouse on the Welton farm where services were conducted until 1847 when the congregation erected a frame church in Akron. Another Methodist class began meeting in homes in the south part of Henry Township about 1839. About 1845 they erected a log church about 4 miles south of Akron. At about the same time

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<sup>142</sup> Yr. Bk. 1940, pp. 810, 826, 904, 906, 907. Information obtained from Thomas A. Hendricks, secretary of Indiana State Medical Association, February 9, 1942, by Harry Graves. See the essay entitled "County Health Officer" and the section entitled "Public Health" in the essays entitled "Governmental Organization and Records System."

<sup>143</sup> Indiana State Planning Board, *op. cit.*, p. 7. Information obtained from Hugh Barnhart, coeditor of *The Rochester News-Sentinel*, on, December 27, 1940, by Harry Graves.

<sup>144</sup> Kingman, *op. cit.*, p. 18.

another Methodist Church, which later became known as the Omega Church, was organized and built about 4 miles southwest of Akron. The Burns Chapel in the north part of Henry Township had its beginning about 1843 when services were conducted either in the house of Henry Bowen or John Burns. The congregation erected a church of frame material in 1859.<sup>145</sup> Other churches of this denomination erected at later dates are serving almost every locality of Fulton County.

The Baptists were also very numerous among the county's early settlers. In 1839 meetings were conducted at the home of Job Meredith, in Newcastle Township, by the Rev. James Martin. A church was organized in the fall of that year but it was not until ten years later that a church edifice was erected which bore the name The Yellow Creek Baptist Church. A church of this denomination was organized in Fulton in 1850. The congregation met at an old sawmill until 1853, when a frame church edifice was erected in Fulton. A Baptist church known as The Little Flock Baptist Church was erected in Kewanna in 1878 at a cost of \$3,000, and two years later the Bethlehem Baptist Church was erected in Newcastle Township. The first members of the Baptist denomination in Rochester were organized through the efforts of the Rev. Leonard McCool and for many years worshiped in the Presbyterian Church. A church was erected on North Main Street in 1867.<sup>146</sup>

The first Presbyterian Church was organized in Rochester in 1840 and in 1844 erected a church building. Rev. Edward Wright was the first pastor. A new church was erected in 1890 at a cost of \$14,000. The denomination had been active in other parts of the county but their main efforts were centered in Rochester.<sup>147</sup>

Roman Catholics began to meet in the home of Maurice Fitzgerald in Union Township about 1844 and erected a chapel on a lot donated by Mr. Fitzgerald in 1850.<sup>148</sup> Shortly thereafter St. Anne's Catholic Church was erected in Kewanna. In 1870 a frame church was erected in the west part of Rochester where Roman Catholic services were conducted by priests who came from Winamac.<sup>149</sup> Other denominations serving the

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<sup>145</sup> *Ibid.*, p. 36

<sup>146</sup> Barnhart, *op. cit.*, pp. 131-133.

<sup>147</sup> Rochester *News-Sentinel*, December 6, 1934.

<sup>148</sup> Kingman, *op. cit.*, p. 61.

<sup>149</sup> Barnhart, *op. cit.*, p. 133.

spiritual needs of the county's residents are United Brethren, Evangelical, Christian, Church of God, Lutheran, and Disciples.<sup>150</sup>

### POLITICS

Fulton County may be classed as a Republican county, though it returned small Democratic majorities at the elections of 1892, 1896, and 1900. From 1904 to 1908 the county was in the Republican fold, but in the election of 1912 was carried by the Democrats. From 1916 until 1924 the county returned substantial majorities to the Republican party. The election of 1924 demonstrated the independence of thought of the county's voters when they voted Republican for President and Democratic for Governor.<sup>151</sup> The election of 1928 showed a strong Republican trend, but the county "went Democratic" by over 1,000 votes in 1932. Since 1936 the county has remained in the Republican fold.<sup>152</sup>

### POPULATION

The first Federal census taken in the county was that of 1840, which showed a population of 1,993. Of these 472 were children under 15, and 111 were persons over 50 years of age. There was one colored man in the county.<sup>153</sup> Population gains in Fulton County kept pace with surrounding agricultural counties. In 1880 there were 14,801, and in 1890 there were 16,746.<sup>154</sup> The turn of the century marked the peak of population for the county. In 1900 the county's residents numbered 17,453 of which 14,032 dwelt on the farms. From that date to the present there has been a steady decrease in rural population in Fulton County, probably due to its proximity to the Calumet industrial region with its shorter work hours and higher wage rates. Population numbered 16,879 in 1910; 16,478 in 1920;<sup>155</sup> 15,038 in 1930 (14,858 were native born; 146

<sup>150</sup> Kingman, *op. cit.*, pp. 18, 32, 36, 54.

<sup>151</sup> Indiana, *Biennial Report of the Secretary of State*, 1892, p. 289; 1896, pp. 226, 234; 1900, p. 356; 1904, pp. 332, 334; 1908, pp. 276, 278; 1912, pp. 92, 94; 1916, pp. 174, 176. Yr. Bk. 1920, p. 61; 1924, pp. 48, 50.

<sup>152</sup> Yr. Bk. 1928, pp. 35, 40; 1932, pp. 1469, 1478; 1936, pp. 929, 935; 1940, pp. 1115, 1121.

<sup>153</sup> U. S. Bureau of Census, *Sixth Census of the United States, 1840*, p. 352.

<sup>154</sup> U. S. Bureau of Census, *Eleventh Census of the United States, 1890, Population*, I, p. 120.

<sup>155</sup> U. S. Bureau of Census, *Fourteenth Census of the United States, 1920, Population*, I, p.

foreignborn, and 34 negroes).<sup>156</sup> 1940 Census figures record an increase to 15,577 of which 3,835 live in Rochester and Kewanna, and 11,742 on the farms and in the smaller communities of the county.<sup>157</sup>

## 2. GOVERNMENTAL ORGANIZATION AND RECORDS SYSTEM

### LEGAL STATUS OF THE COUNTY

The county in Indiana is an involuntary corporation, sometimes called a quasi corporation, organized as a political subdivision of the State, solely for governmental purposes. It is a "municipal corporation" and a "municipality" within the meaning of several statutes using those terms. It is an instrumentality of government, exercising the powers delegated by the State and acting for the State. County officers are agents of the State. The authority of the county and its officers and agents is limited to that expressly or impliedly conferred on them by the Indiana General Assembly. Except as limited by the State Constitution, the General Assembly has full power to create, modify, and abolish counties, and to prescribe their powers, governmental organization, and liabilities.<sup>1</sup>

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<sup>156</sup> U. S. Bureau of Census, *Fifteenth Census of the United States, 1930, Population*, III, p. 695.

<sup>157</sup> U. S. Bureau of Census. *Sixteenth Census of the United States, 1940, Population*, (in pamphlet form) p. 4.

<sup>1</sup> *Gavin v. Board of County Comrs.*, 104 Ind. 201, 3 N. E. 846 (1885); *State ex rel. Workman v. Goldthait*, 172 Ind. 210, 87 N. E. 133 (1909); *Applegate v. Pettijohn*, 205 Ind. 122, 125, 185 N. E. 911 (1933); *McDermott v. Board of County Comrs.*, 60 Ind. App. 209, 110 N. E. 237 (1915); *Buck v. Indiana Constr. Co.*, 79 Ind. App. 329, 138 N. E. 356 (1923).

"Municipal corporation." Acts 1933, ch. 237, sec. 2 (repealed by Acts 1937, ch. 119, sec. 11). Acts 1929; Burns 60-1102; Baldwin 11392-2. Acts 1933; Burns 61-906; Baldwin 13353-6. Acts 1937; Burns, 1941 suppl., 61-526, 61-622(d), 64-308; Baldwin, 1937 suppl., 12849-2, 13844-43(d), 15897-2.

"Municipality." Acts 1909; Burns 60-219; Baldwin 13870. Acts 1917; Burns 60-229; Baldwin 13880. Acts 1923; Burns 60-236; Baldwin 14091. Acts 1937; Burns, 1941 suppl., 61-509(a); Baldwin, 1937 suppl., 12489-4(a).

"Offices created by the Legislature can be abolished by the Legislature. The power that creates can destroy. The creator is greater than the creature. The term of an office may be shortened, the duties of the office increased, and the compensation lessened, by the Legislative will." *Rogers v. Calumet National Bank*, 213 Ind. 576, 585, 12 N. E. (2d) 261 (1938).



Before the adoption of the Constitution of 1851, the Legislature had full power to enact local laws concerning county matters, and many such laws were enacted; but since 1851 there have been constitutional provisions prohibiting the enactment of local laws concerning several specified subjects affecting county organization and functions.<sup>2</sup> The General Assembly often passes laws applicable to counties and cities having a specified population and to counties containing cities of a specified population. Such laws are sometimes upheld<sup>3</sup> and sometimes held void as being in conflict with these constitutional provisions.<sup>4</sup> Several laws authorize the appointment of county officials but do not require such appointment.

There are 92 counties in Indiana. Knox County, the oldest, was created by proclamation of the Governor of the Northwest Territory on June 20, 1790.<sup>5</sup> The counties of Clark<sup>6</sup> and Dearborn<sup>7</sup> were created on February 3, 1801 and March 7, 1803, respectively, by proclamation of the Governor of Indiana Territory. The counties of Franklin,<sup>8</sup> Gibson,<sup>9</sup> Harrison,<sup>10</sup> Jackson,<sup>11</sup> Jefferson,<sup>12</sup> Orange,<sup>13</sup> Perry,<sup>14</sup>

<sup>2</sup> Const. 1851, art. 4, secs. 22, 23.

<sup>3</sup> State ex rel. Hargrave v. Reitz, 62 Ind. 159 (1878); Campbell v. Indianapolis, 155 Ind. 186, 57 N. E. 920 (1900); Bullock v. Robison, 176 Ind. 198, 93 N. E. 998 (1911); Wayne Twp. v. Brown, 205 Ind. 437, 186 N. E. 841 (1933); Meara v. Brindley, 207 Ind. 657, 194 N. E. 351 (1935); Groves v. Board of County Comrs., 209 Ind. 371, 199 N. E. 137 (1936); Crowe v. Board of County Comrs., 210 Ind. 404, 3 N. E. (2d) 76 (1936); Board of County Comrs. v. Crowe, 214 Ind. 446, 14 N. E. (2d) 907 (1938).

<sup>4</sup> Campbell v. Indianapolis, 155 Ind. 186, 57 N. E. 920 (1900); Rushville v. Hayes, 162 Ind. 193, 70 N. E. 134 (1904); Bumb v. Evansville, 168 Ind. 272, 80 N. E. 625 (1907); Kraus v. Lehman, 170 Ind. 408, 83 N. E. 714 (1908); Bullock v. Robison, 176 Ind. 198, 93 N. E. 998 (1911); Boberg v. Harlem, 194 Ind. 310, 142 N. E. 705 (1924); Heffelfinger v. Ft. Wayne, 196 Ind. 689, 149 N. E. 555 (1925); Heckler v. Conter, 206 Ind. 376, 187 N. E. 878 (1933); Crowe v. Board of County Comrs., 210 Ind. 404, 3 N. E. (2d) 76 (1936).

<sup>5</sup> William Henry Smith, ed., *St. Clair Papers*, II 166 note. George Pence and Nellie C. Armstrong, *Indiana Boundaries: Territory, State and County*, pp. 21, 514.

<sup>6</sup> Pence and Armstrong, *op. cit.*, p. 256.

<sup>7</sup> *Ibid.*, p. 310.

<sup>8</sup> Acts 1810, ch. 6.

<sup>9</sup> Acts 1813, ch. 23.

<sup>10</sup> Acts 1808, ch. 1.

<sup>11</sup> Acts 1815, ch. 1.

<sup>12</sup> Acts 1810, ch. 2.

<sup>13</sup> Acts 1815, ch. 12.

<sup>14</sup> Acts 1814, ch. 7.

Posey,<sup>15</sup> Switzerland,<sup>16</sup> Warrick,<sup>17</sup> Washington,<sup>18</sup> and Wayne<sup>19</sup> were created by special acts of the General Assembly of Indiana Territory. These 15 counties are all mentioned in the Constitution of 1816.<sup>20</sup> The remaining 77 counties were created by special acts of the General Assembly of the State of Indiana.

The Constitution of 1816 provided: "The General Assembly, when they lay off any new county, shall not reduce the old county, or counties, from which the same shall be taken to a less content than four hundred square miles."<sup>21</sup> The Constitution of 1816 further provided that the Legislature, "at the time they lay off a new county," should provide certain funds for a public library.<sup>22</sup>

The Constitution of 1851 provides: "No county shall be reduced to an area less than four hundred square miles; nor shall any county, under that area, be further reduced."<sup>23</sup> The Constitution of 1851 further provides: "The Senate shall not exceed fifty, nor the House of Representatives one hundred members; and they shall be chosen by the electors of the respective counties or districts, into which the State may, from time to time, be divided."<sup>24</sup> The Constitution of 1851 provides that a new county may be created out of the counties of Perry and Spencer if approved by election of the voters in those counties in such manner as may be prescribed by law;<sup>25</sup> but no such new county has been created. These are all of the constitutional provisions concerning the creation of counties in Indiana.

The Legislature passed a general law in 1861 providing for the creation of new counties by election in the affected old counties after petition has been presented to the board of commissioners in such counties.<sup>26</sup> No new counties have been created since the enactment of this law.

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<sup>15</sup> *Ibid.*

<sup>16</sup> *Ibid.*, ch. 9.

<sup>17</sup> Acts 1813, ch. 23.

<sup>18</sup> Acts 1813-14, ch. 10.

<sup>19</sup> Acts 1810, ch. 1.

<sup>20</sup> Const. 1816, art. 12, sec. 9.

<sup>21</sup> *Ibid.*, art. 11, sec. 12.

<sup>22</sup> *Ibid.*, art. 9, sec. 5.

<sup>23</sup> Const. 1851, art. 15, sec. 7.

<sup>24</sup> *Ibid.*, art. 4, sec. 2.

<sup>25</sup> *Ibid.*, schedule, par. 15.

<sup>26</sup> Acts 1861; Burns 26-301 to 26-310; Baldwin 5044 to 5053.



## STRUCTURAL DEVELOPMENT OF COUNTY GOVERNMENT

From the organization of Fulton County in 1836,<sup>27</sup> the following officers, boards, and courts (arranged alphabetically in three groups) have existed in the county:

## OFFICERS

- Appraiser (1841-72)<sup>28</sup>
- Auditor (1841 to date)<sup>29</sup>
- Clerk of the circuit court (1836 to date)<sup>30</sup>
- Commissioner of three-percent fund (1836-43)<sup>31</sup>
- Coroner (1836 to date)<sup>32</sup>
- County agent (1836-52)<sup>33</sup>
- County agricultural agent (1918 to date)<sup>34</sup>
- County assessor (1836-52, 1872-75, 1891 to date)<sup>35</sup>
- County attendance officer (1913 to date)<sup>36</sup>
- County director of public welfare (1936 to date)<sup>37</sup>
- County health commissioner (1909-38)<sup>38</sup>
- County health officer (1881-1909, 1938 to date)<sup>39</sup>
- County highway superintendent (1913-33)<sup>40</sup>
- County highway supervisor (1933 to date)<sup>41</sup>
- County liquor agent (1855-59)<sup>42</sup>
- County poundkeeper (1836-53)<sup>43</sup>
- County school commissioner (1836-49)<sup>44</sup>

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<sup>27</sup> Fulton Organization Acts. Acts 1834-35 (general), ch. 25, sec. 8. Acts 1835-36 (general), ch. 16, sec. 1.

<sup>28</sup> See the essays entitled "County Assessor."

<sup>29</sup> See the essay entitled "Auditor."

<sup>30</sup> See the essay entitled "Clerk of the Circuit Court."

<sup>31</sup> See the essay entitled "Commissioner of Three Percent Fund (1836-43)."

<sup>32</sup> See the essay entitled "Coroner."

<sup>33</sup> See the essay entitled "County Agent (1836-52)."

<sup>34</sup> See the essay entitled "County Agricultural Agent."

<sup>35</sup> See the essay entitled "County Assessor."

<sup>36</sup> See the essay entitled "County Attendance Officer."

<sup>37</sup> See the essay entitled "County Department of Public Welfare."

<sup>38</sup> See the essay entitled "County Health Officer."

<sup>39</sup> *Ibid.*

<sup>40</sup> See the essay entitled "County Highway Supervisor."

<sup>41</sup> *Ibid.*

<sup>42</sup> See the essay entitled "County Liquor Agent (1855-59)."

<sup>43</sup> See the essay entitled "County Pound keeper (1836-53)."

<sup>44</sup> See the essay entitled "County School Commissioner (1836-49)."

County school examiner (1836-73)<sup>45</sup>  
 County superintendent (1873-1927)<sup>46</sup>  
 County superintendent of schools (1927 to date)<sup>47</sup>  
 District attorney (1853-73)<sup>48</sup>  
 District road supervisors (1836-79)<sup>49</sup>  
 Jury commissioners (1881 to date)<sup>50</sup>  
 Lister (1836 to 41)<sup>51</sup>  
 Probation officer (1910 to date)<sup>52</sup>  
 Prosecuting attorney (1836 to date)<sup>53</sup>  
 Recorder (1836 to date)<sup>54</sup>  
 Registration clerks (1911-17)<sup>55</sup>  
 Registration inspector (1911-17)<sup>56</sup>  
 Registration officer (1889-92, 1933 to date)<sup>57</sup>  
 Sheriff (1836 to date)<sup>58</sup>  
 Surplus revenue agent (1837-43)<sup>59</sup>  
 Surveyor (1836 to date)<sup>60</sup>  
 Tax collector (1836-41)<sup>61</sup>  
 Treasurer (1836 to date)<sup>62</sup>  
 Truant officer (1897 to 1913)<sup>63</sup>  
 Trustee of public seminary (1836-53)<sup>64</sup>

## BOARDS

Board of children's guardians (1901-36)<sup>65</sup>

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<sup>45</sup> See the essay entitled "County Superintendent of Schools."

<sup>46</sup> *Ibid.*

<sup>47</sup> *Ibid.*

<sup>48</sup> See the essay entitled "District Attorney (1853-73)."

<sup>49</sup> See the essay entitled "County Highway Supervisor."

<sup>50</sup> See the essay entitled "Jury Commissioners."

<sup>51</sup> See the essay entitled "County Assessor."

<sup>52</sup> See the essay entitled "Probation Officer."

<sup>53</sup> See the essay entitled "Prosecuting Attorney."

<sup>54</sup> See the essay entitled "Recorder."

<sup>55</sup> See the essay entitled "Registration Officer."

<sup>56</sup> *Ibid.*

<sup>57</sup> *Ibid.*

<sup>58</sup> See the essay entitled "Sheriff."

<sup>59</sup> See the essay entitled "Surplus Revenue Agent (1837-43)."

<sup>60</sup> See the essay entitled "Surveyor."

<sup>61</sup> See the essay entitled "Tax Collector (1836-41)."

<sup>62</sup> See the essay entitled "Treasurer."

<sup>63</sup> See the essay entitled "County Attendance Officer."

<sup>64</sup> See the essay entitled "Trustee of Public Seminary (1836-53)."

<sup>65</sup> See the essay entitled "Board of Children's Guardians (1901-36)."

Board of commissioners (1836 to date)<sup>66</sup>  
 Board of county charities and corrections (1900-36)<sup>67</sup>  
 Board of equalization (1836-90)<sup>68</sup>  
 Board of finance (1907 to date)<sup>69</sup>  
 Board of primary election commissioners (1907 to date)<sup>70</sup>  
 Board of registration commissioners (1917-19)<sup>71</sup>  
 Board of turnpike directors (1879-1913)<sup>72</sup>  
 Commission of public records (1939 to date)<sup>73</sup>  
 County board of canvassers (1843 to date)<sup>74</sup>  
 County board of education (1873 to date)<sup>75</sup>  
 County board of election commissioners (1889 to date)<sup>76</sup>  
 County board of health (1881-1909)<sup>77</sup>  
 County board of public welfare (1936 to date)<sup>78</sup>  
 County board of review (1891 to date)<sup>79</sup>  
 County board of tax adjustment (1932 to date)<sup>80</sup>  
 County council (1899 to date)<sup>81</sup>  
 County department of public welfare (1936 to date)<sup>82</sup>  
 County school fund board (1935 to date)<sup>83</sup>  
 Precinct registration board (1911-17, 1919-27)<sup>84</sup>  
 Township board of registry (1867-69)<sup>85</sup>

## COURTS

Circuit court (1836 to date)<sup>86</sup>

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- <sup>66</sup> See the essay entitled "Board of Commissioners."  
<sup>67</sup> See the essay entitled "Board of County Charities and Corrections (1900-36)."  
<sup>68</sup> See the essay entitled "County Board of Review."  
<sup>69</sup> See the essay entitled "Board of Finance."  
<sup>70</sup> See the essay entitled "Board of Primary Election Commissioners."  
<sup>71</sup> See the essay entitled "Registration Officer."  
<sup>72</sup> See the essays entitled "Board of Commissioners" and "County Highway Supervisor."  
<sup>73</sup> See the essay entitled "Commission of Public Records."  
<sup>74</sup> See the essay entitled "County Board of Canvassers."  
<sup>75</sup> See the essay entitled "County Board of Education."  
<sup>76</sup> See the essay entitled "County Board of Election Commissioners."  
<sup>77</sup> See the essay entitled "County Health Officer."  
<sup>78</sup> See the essay entitled "County Department of Public Welfare."  
<sup>79</sup> See the essay entitled "County Board of Review."  
<sup>80</sup> See the essay entitled "County Board of Tax Adjustment."  
<sup>81</sup> See the essay entitled "County Council."  
<sup>82</sup> See the essay entitled "County Department of Public Welfare."  
<sup>83</sup> See the essay entitled "County School Fund Board."  
<sup>84</sup> See the essay entitled "Registration Officer."  
<sup>85</sup> *Ibid.*  
<sup>86</sup> See the essay entitled "Circuit Court."

Court of common pleas (1853-73)<sup>87</sup>

Court of conciliation (1853-65)<sup>88</sup>

Probate court (1836-53)<sup>89</sup>

In the early days of the county few public officials were needed. The sheriff preserved order generally, took part in conducting elections, and executed the process and orders of the courts. The clerk of the circuit court acted as ministerial officer of the courts, served as clerk of the board of commissioners, took part in elections, county finance, and taxation, and was in general a "county clerk"—a name by which he is often called now. The duties of the coroner, prosecuting attorney, recorder, surveyor, and treasurer were similar to their present duties except that taxes were collected by a county tax collector (instead of the treasurer) from 1836 until 1841. County business was transacted by a board of commissioners (composed of three county commissioners) from 1836 until 1899, and by a board of commissioners (composed of three county commissioners) and the county council (composed of seven councilmen) since 1899. The board of commissioners had charge of the acquisition, use, and disposition of county property, constructed public buildings, levied taxes, issued licenses, established and constructed roads and bridges, allowed claims against the county, employed several minor public officials, and provided for poor relief. The county had two courts from 1836 until 1853, three from 1853 until 1865, two from 1865 until 1873, and has had one from 1873 to the present time. As a result of increased property valuations and transfers, broadening of the scope of commercial enterprises and transactions, a constant growth in population, and improvements in transportation facilities, taxation and county finance gradually grew from a simple form to a complex form requiring additional public officials. The office of auditor (the financial agent of the county) was created in 1841 to take over many duties of the clerk of the circuit court. The first tax law for the support of schools was passed in 1849. Since the adoption of the Constitution of 1851 the public school facilities have steadily improved. In 1899 the "County Reform Law" was enacted, transferring to the newly created county council many duties concerning

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<sup>87</sup> See the essay entitled "Court of Common Pleas (1853-73)."

<sup>88</sup> See the essay entitled "Court of Conciliation (1853-65)."

<sup>89</sup> See the essay entitled "Probate Court (1836-53)."

taxation and finance previously performed by the board of commissioners. In recent years public health service and public welfare assistance have become important functions of the county and its officials.

#### GENERAL ADMINISTRATION

The general administrative control of county matters is vested in the board of commissioners and the county council.<sup>90</sup>

#### CONTRACTS

The board of commissioners, as the general governing body of the county, is the agency entrusted with the making of contracts for the purchase of materials and supplies for all county offices, and for the construction of county buildings and other public improvements.<sup>91</sup> The board cannot bind the county by any contract which is beyond the scope of its powers.<sup>92</sup> While contracts made by the board are ordinarily in writing, the board may, in certain cases, bind the county by oral contracts.<sup>93</sup>

Through the statutes prescribing the methods of letting contracts vary in detail, their general features are fairly uniform. The board is usually required to prepare specifications of commodities to be purchased or work to be performed, together with plans, drawings, or models, if necessary or desirable, and to place these on file in the auditor's office for public inspection. Notice is then given by publication in newspapers of general circulation that the specifications are on file for examination and that sealed bids will be received up to a certain date. The board, after examination of the bids submitted, is required to award the contract to the "lowest responsible bidder," or, in some instances, the

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<sup>90</sup> Many duties of these boards are discussed specifically under appropriate headings of this essay. See also the essays entitled "Board of Commissioners" and "County Council."

<sup>91</sup> Acts 1899, 1903, 1933; Burns 26-536, 26-537; Baldwin 5401, 5402. Acts 1907; Burns 26-001 26-2009; Baldwin 5100 to 5108. Acts 1913, 1929, 1933; Burns 53-101 to 53-106; Baldwin 14079 to 14083.

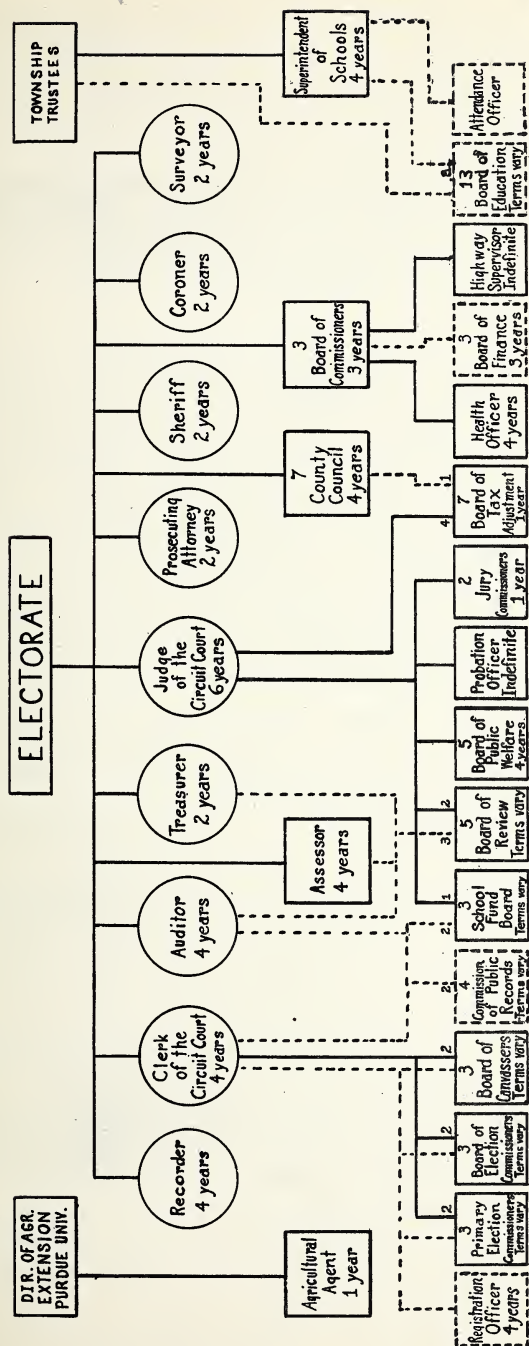
Use of prison-made goods. Op Atty. Gen. 1939, p. 98.

<sup>92</sup> *Hight v. Board of County Comrs.*, 68 Ind. 575, 577 (1879); *Driftwood Valley Turnpike Co. v. Board of County Comrs.*, 72 Ind. 226 (1880); *Board of County Comrs. v. Bradford*, 72 Ind. 455 (1880).

<sup>93</sup> *McCabe v. Board of County Comrs.*, 46 Ind. 380 (1874); *Board of County Comrs. v. Ritter*, 90 Ind. 362 (1883).



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Circles - constitutional officers.  
 Squares - statutory officers.  
 Figures - number of members  
 and term of office.  
 Solid lines - elected or appointed  
 Broken lines - ex officio.

Board of Education also includes: the president of the school board in each city and town in the county (4).

Board of Tax Adjustment also includes: the Mayor of Rochester or his appointee, and a member of the county board of education.

Commission of Public Records also includes: the judge of the circuit court, and the president of the board of commissioners.

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"lowest and best bidder."<sup>94</sup> The right is usually reserved to the board, however, to reject any and all bids, if they are unsatisfactory, and readvertise for new bids. Contracts cannot be made unless money has previously been appropriated by the county council for the particular purpose involved.<sup>95</sup>

As a general rule, the time for performance of a contract may extend beyond the official terms of the county commissioners, if the contract is made in good faith.<sup>96</sup> A contract employing an attorney is an exception to this rule.<sup>97</sup>

#### ACTIONS

Ordinarily an action for and against the county is brought by or against the board of commissioners.<sup>98</sup> An action to recover money from the county cannot be maintained until a claim therefor has been presented to the board of commissioners and disallowed in whole or in part; but the complaint in such suit need not allege such presentation and disallowance, this being a matter of defense.<sup>99</sup> If the allowance of a claim is illegal, unwarranted or unauthorized, the board of commissioners may sue to recover from the payee the amount paid. If the board does not bring suit within 60 days after such allowance, any taxpayer may demand such suit; and if such demand is refused, the taxpayer may sue for the county.<sup>100</sup> If money is illegally paid out of the county treasury, suit to recover the same from the payee may be maintained in the name of the State on the relation of the board of commissioners or the officer making disbursement. If such suit is not brought

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<sup>94</sup> The courts have held that provisions of this nature vest some discretion in the board in determining the bidder to whom the contract shall be awarded. *Ness v. Board of County Comrs.*, 178 Ind. 221, 98 N. E. 33 (1912); *Eigenmann v. Board of County Comrs.*, 53 Ind. App. 1, 101 N. E. 38 (1913).

<sup>95</sup> Acts 1899; Burns 26-525, 26-527; Baldwin 5389, 5391.

<sup>96</sup> *Board of County Comrs. v. Shields*, 130 Ind. 6, 29 N. E. 385 (1891); *Jessup v. Hinchman*, 77 Ind. App. 460, 133 N. E. 853 (1922).

<sup>97</sup> *Board of County Comrs. v. Taylor*, 123 Ind. 148, 23 N. E. 752 (1890).

<sup>98</sup> 1 Rev. Stat. 1852; Burns 26-606; Baldwin 5220. *Shilling v. State ex rel. Board of County Comrs.*, 158 Ind. 185, 62 N. E. 49 (1901).

<sup>99</sup> Acts 1879 (Spec. Sess.), 1885; Burns 26-820; Baldwin 5275, *Bass Foundry & Mach. Works v. Board of County Comrs.*, 115 Ind. 234, 17 N. E. 593 (1888); *Board of County Comrs. v. Tichenor*, 129 Ind. 562, 29 N. E. 32 (1891); *Mueller v. Board of County Comrs.*, 73 Ind. App. 196, 127 N. E. 15 (1920).

<sup>100</sup> Acts 1857; Burns 26-811; Baldwin 5262. *Sudbury v. Board of County Comrs.*, 157 Ind. 446, 62 N. E. 45 (1901).

within 30 days, any citizen or taxpayer may make written demand on the board of commissioners to bring such suit; and if the board fails or refuses to do so, he may bring suit in the name of the State on his own relation.<sup>101</sup>

The board of commissioners, as relator, may sue, in the name of the State, on official bonds to recover county funds.<sup>102</sup> The auditor, as relator, may sue, in the name of the State, to recover money owing to the county.<sup>103</sup>

The treasurer sues in his name, as treasurer, to collect property taxes.<sup>104</sup> Suit to collect inheritance taxes is brought in the name of the county.<sup>105</sup> After a claim therefor has been disallowed by the board of commissioners, the taxpayer may sue the board of commissioners for a refund of taxes illegally assessed or collected.<sup>106</sup>

Land needed by the county for public buildings,<sup>107</sup> highways, bridges, culverts,<sup>108</sup> drainage, sewers,<sup>109</sup> or airports<sup>110</sup> may be acquired by the county under its power of eminent domain, on payment of the value and damages fixed by the court in condemnation proceedings.

The action of mandamus may be brought against any county officer to compel the performance of any act which the law specifically requires, or any duty resulting from his office or trust.<sup>111</sup> For example, mandamus lies to compel: The

<sup>101</sup> Acts 1899; Burns 26-545; Baldwin 5410.

<sup>102</sup> Acts 1881 (Spec. Sess.); Burns 2-203; Baldwin 18. *Graham v. State ex rel. Board of County Comrs.*, 66 Ind. 386 (1879); *Shilling v. State ex rel. Board of County Comrs.*, 158 Ind. 185, 62 N. E. 49 (1901).

<sup>103</sup> 1 Rev. Stat. 1852; Burns 49-3017; Baldwin 5431. *Vanarsdall v. State ex rel. Watson*, 65 Ind. 176 (1879); *Demarest v. Holdeman*, 157 Ind. 467, 62 N. E. 17 (1901).

<sup>104</sup> Acts 1932 (Spec. Sess.); Burns 61-1511; Baldwin 15754.

<sup>105</sup> Acts 1931; Burns 6-2415; Baldwin 15953.

<sup>106</sup> Acts 1919; Burns 64-2819; Baldwin 15881. Acts 1923; Burns 64-2824; Baldwin 15884. *Cody v. Board of County Comrs.*, 204 Ind. 87, 183 N. E. 404 (1932); *Board of County Comrs. v. Millikan*, 207 Ind. 142, 190 N. E. 185 (1934).

<sup>107</sup> Acts 1899; Burns 26-2101; Baldwin 5109.

<sup>108</sup> Acts 1919; Burns 36-303; Baldwin 8861. Acts 1935; Burns, 1941 suppl., 36-711; Baldwin, 1935 suppl., 8861-1.

<sup>109</sup> Acts 1937; Burns, 1941 suppl., 26-640; Baldwin, 1937 suppl., 5236-1.

<sup>110</sup> Acts 1920 (Spec. Sess.); Burns 14-302; Baldwin 4022.

<sup>111</sup> Acts 1881 (Spec. Sess.), 1911; Burns 3-2202; Baldwin 1091.

Mandamus does not lie to compel county treasurer to pay warrant where it is alleged that the warrant was presented to him and payment was refused. *Finerty v. State ex rel. Greenwald*, 215 Ind. 346, 19 N. E. (2d) 846 (1939).

auditor to draw warrants on the county treasury;<sup>112</sup> the board of commissioners to take action on claims that have been properly presented,<sup>113</sup> to approve official bonds,<sup>114</sup> and to repair or rebuild bridges;<sup>115</sup> and the county council to make appropriations.<sup>116</sup>

In some instances a county officer can be enjoined from acting illegally. Some of the facts prevented by injunction are: Collection of illegal taxes;<sup>117</sup> illegal issuance of licenses;<sup>118</sup> doing of illegal acts that would increase taxation;<sup>119</sup> payment of illegal claims;<sup>120</sup> and making an illegal contract.<sup>121</sup>

The county is not liable for damages resulting from the acts or omissions of its officers, except where such liability is imposed or permitted by statute.<sup>122</sup>

Failure of the county council to make appropriation for the debt or demand constituting the subject matter of the suit does not prevent maintenance of the suit or recovery of judgment.<sup>123</sup> No judgment against a county is enforceable except out of moneys appropriated by the county council for that purpose; but, by mandamus proceedings (against the county council, board of commissioners, and auditor), the county council may be compelled to make such appropriation.<sup>124</sup>

It is the duty of the prosecuting attorney to superintend, on behalf of the county, all suits in which the county may be

<sup>112</sup> Gill v. State ex rel. Board of County Comrs., 72 Ind. 266 (1880).

<sup>113</sup> Board of County Comrs. v. State ex rel. Reed, 179 Ind. 644, 102 N. E. 97 (1913).

<sup>114</sup> State ex rel. Taylor v. Board of County Comrs., 124 Ind. 554, 25 N. E. 10 (1890).

<sup>115</sup> State ex rel. Roundtree v. Board of County Comrs., 80 Ind. 478 (1881).

<sup>116</sup> Shelby County Council v. State ex rel. School City of Shelbyville, 155 Ind. 216, 57 N. E. 712 (1900).

<sup>117</sup> Hobbs v. Board of County Comrs., 103 Ind. 575, 3 N. E. 263 (1885).

<sup>118</sup> Marriage License. Sweigart v. State, 213 Ind. 157, 12 N. E. (2d) 134 (1938).

<sup>119</sup> State ex rel. Davis v. Board of County Comrs., 165 Ind. 262, 74 N. E. 1091 (1905).

<sup>120</sup> Warren Agri. Joint Stock Co. v. Barr, 55 Ind. 30 (1876). But see Bently v. Board of County Comrs., 102 Ind. App. 533, 200 N. E. 499 (1936).

<sup>121</sup> Farris v. Jones, 112 Ind. 498, 14 N. E. 484 (1887).

<sup>122</sup> State ex rel. Board of County Comrs. v. Board of County Comrs., 170 Ind. 595, 608, 85 N. E. 513 (1908).

<sup>123</sup> Acts 1899; Burns 26-527; Baldwin 5391. Board of County Comrs. v. Pike Civil Twp., 168 Ind. 535, 81 N. E. 489 (1907).

<sup>124</sup> Acts 1941, ch. 17. Acts 1899, 1941; Burns, 1941 suppl., 26-528; Baldwin, 1941 suppl., 5392.

Formerly the public property of the county was subject to execution to satisfy such judgment. 2 Rev. Stat. 1852; Burns 26-803; Baldwin 525

interested or involved,<sup>125</sup> including suits to collect taxes and tax penalties<sup>126</sup> and suits against officers or on their bonds.<sup>127</sup> The prosecuting attorney must make a report to the board of commissioners each month showing the causes in which he appeared in person or by deputy.<sup>128</sup>

## RECORDATION

The recordation of deeds, mortgages, plats, and other private documents for purposes of preservation and public notice is a most important function of the county, since commerce and titles to property are directly affected thereby.<sup>129</sup> To entitle any conveyance, mortgage, or other written instrument to be recorded, the execution thereof must be acknowledged or proved in the manner required by law,<sup>130</sup> and the intangible tax thereon (if any) must be paid.<sup>131</sup> No conveyance of land can be recorded by the recorder until after the instrument has been presented to the auditor and he has made an endorsement thereon that the land has been duly entered for taxation or is not taxable.<sup>132</sup>

The recorder and clerk of the circuit court are the recording officers. Lists of documents which may be recorded by them are included in the essays entitled "Recorder" and "Clerk of the Circuit Court."

<sup>125</sup> 2 Rev. Stat. 1852; Burns 49-2504; Baldwin 5460.

<sup>126</sup> Acts 1931; Burns 6-2415; Baldwin 15953. Acts 1937; Burns, 1941 suppl., 16-320; Baldwin, 1937 suppl., 3811-4. Acts 1919; Burns 64-608, 64-719, 64-1319, 64-1519, 64-2208; Baldwin 15576, 15633, 15723, 15773, 15815. Acts 1932 (Spec. Sess.); Burns 64-1511; Baldwin 15754. Acts 1933, 1937; Burns, 1941 suppl., 64-2628; Baldwin, 1937 suppl., 16009.

<sup>127</sup> Acts 1917; Burns 60-227; Baldwin 13878.

<sup>128</sup> Acts 1933; Burns 49-2695; Baldwin 7550.

<sup>129</sup> Acts 1935; Burns, 1941 suppl., 51-504; Baldwin, 1935 suppl., 13227-4. 1 Rev. Stat. 1852 Burns 56-118; Baldwin 14664. 1 Rev. Stat. 1852, Acts 1875, 1913, 1921, 1923; Burns 56-119; Baldwin 14671. Acts 1897; Burns 56-120; no Baldwin. Acts 1877; Burns 56-716; Baldwin 998.

Right to rely on record of mortgage. *Vincennes Savings and Loan Assn. v. St. John*, 213 Ind. 171, 12 N. E. (2d) 127 (1938).

<sup>130</sup> Rev. L. 1831, ch. 41, secs. 7, 11. Acts 1905; Burns 48-801; Baldwin 12473. 1 Rev. Stat. 1852; Burns 49-3212; Baldwin 14666. Acts 1935; Burns, 1941 suppl., 51-507; Baldwin, 1935 suppl., 13227-7. 1 Rev. Stat. 1852, Acts 1859; Burns 56-123 to 56-130, 56-132 to 56-137; Baldwin 14674 to 14676, 14679 to 14683, 14666, 14669, 14658, 14677, 14659, 14731.

The acknowledgment or proof must be recorded with the instrument. *Ibid.*

<sup>131</sup> Acts 1933; Burns 64-929; Baldwin 15927.

<sup>132</sup> 1 Rev. Stat. 1852; Burns 49-3214; Baldwin 5478. Acts 1919; Burns 64-1409; Baldwin



Indiana has no system of registration of land titles. A bill to establish the "Torrens System" of registration of land titles was introduced in the 1939 session of the General Assembly but was defeated.

Indiana has a system of registering titles to motor vehicles (law administered by the State Bureau of Motor vehicles),<sup>183</sup> but has no system of registering titles to other personal property.

#### JUDICIARY

Fulton Circuit Court has been in active existence ever since 1836. The following courts formerly existed in this county: Probate court (1836-53); court of common pleas (1853-73); and, court of conciliation (1853-65).<sup>184</sup>

The circuit court has original jurisdiction of naturalization proceedings under the Federal laws; all criminal cases under the State laws (except those punishable only by fine not exceeding \$3, of which the justice of the peace have exclusive jurisdiction); proceedings to punish the violators of town ordinances; all civil actions at law; all suits in equity; divorce and alimony proceedings; declaratory judgment proceedings; juvenile matters; insanity inquests and commitments; election contests; proceedings for removal of county officers; quo warranto proceedings; proceedings for mandate, prohibition, and injunction; proceedings to quiet title to real estate; partition proceedings; ne exeat proceedings; habeas corpus proceedings; proceedings to commit persons to hospitals operated by Indiana University; eminent domain proceedings; proceedings to establish drainage districts and assessments; proceedings for change of names of persons; adoption proceedings; birth registration proceedings; receiverships; bastardy proceedings; guardianships; probate of wills; and administration of estates of decedents, minors, and insane persons. The circuit court is known as the "Juvenile Court" when exercising jurisdiction of juvenile matters. In connection with its jurisdiction to administer decedents' estates, the court administers certain provisions of the inheritance tax laws.<sup>185</sup>

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<sup>183</sup> Acts 1921, 1931, 1935, 1939; Burns, 1941 suppl., 47-301; Baldwin, 1939 suppl., 11128.

<sup>184</sup> See the essays entitled "Circuit Court," "Probate Court (1836-53)," "Court of Common Pleas (1853-73)," and "Court of Conciliation (1853-65)."

<sup>185</sup> See the essay entitled "Circuit Court."



The circuit court has appellate jurisdiction to review decisions of justices of the peace; city courts; board of commissioners; board of commissioners and county council acting jointly concerning condemnation of schoolhouses; board of review fixing value of property for taxation; taxing authorities determining what property is taxable; board of public works or board of park commissioners of any city in the county (or city council performing such functions); and other inferior tribunals when no express direction is given as to the court to which the appeal lies.<sup>136</sup>

In each township in this county there is a justice of the peace, elected for a 4-year term by the voters of the township. He has original jurisdiction (concurrent with the circuit court) of certain civil actions involving \$200 or less, with power to render judgment up to \$300 on confession; exclusive original jurisdiction of misdemeanors under the State laws punishable only by fine not exceeding \$3; original jurisdiction (concurrent with the circuit court) of all other misdemeanors under the State laws punishable by fine only, with power to assess fines only up to \$25; and jurisdiction as a committing magistrate in criminal cases under the State laws. His civil jurisdiction is limited to his township, but his criminal jurisdiction is coextensive with his county. Each justice of the peace must pay to the county treasurer all fines which he collects. This county has had justices of the peace since its organization.<sup>137</sup>

Arranged according to subject matter, the courts existing in Fulton County from 1836 to date have had original jurisdiction as follows:—*Civil actions at Law*: (a) circuit court (1836 to date), (b) probate court (1836-53), (c) court of common pleas (1853-73); *criminal cases*: (a) circuit court (1836 to date), (b) court of common pleas (1853-73); *chancery cases*: (a) circuit court (1836 to date), (b) probate court (1836-53); (c) court of common pleas (1853-73); *probate matters, settlement of decedents' estates, and guardianships*: (a) circuit court (1873 to date), (b) probate court (1836-53), (c) court of common pleas (1853-73);

<sup>136</sup> *Ibid.*

<sup>137</sup> Const. 1816, art. 5, sec. 12. Const. 1851, art. 7, sec. 14. Rev. Stat. 1838, ch. 7 (second act, sec. 1; ch. 53, secs. 1, 5, 14, 18, 19, 39. Rev. Stat. 1843, ch. 4, secs. 21-25; ch. 47, secs. 1-13; ch. 55, secs. 1, 3-8. 2 Rev. Stat. 1852, ch. 1, secs. 1-3, p. 449; ch. 6, secs. 1-9, pp. 497, 498. Acts 1913; Burns 5-101; Baldwin 1828. 2 Rev. Stat. 1852; Acts 1861; Burns 5-201, 5-208; Baldwin 1857, 1859. Acts 1881; Burns 5-1303; Baldwin 1874. Acts 1905; Burns 9-711, 9-715; Baldwin 2080, 2084.

*juvenile matters*: (a) circuit court (1867 to date), (b) court of common pleas (1867-73); *conciliation*: court of conciliation (1853-65); *naturalization proceedings*: (a) circuit court (1836 to date), (b) court of common pleas (1859-73).<sup>138</sup>

Decisions of the circuit court were reviewable by the Supreme court of Indiana until 1891, and since 1891 by the Supreme Court of Indiana or the Appellate Court of Indiana. Decisions of the probate court (1836-53) and the court of common pleas (1853-73) were reviewable by the Fulton Circuit Court or the Supreme Court of Indiana. Proceedings in the court of conciliation could not be appealed to another court.<sup>139</sup>

In 1937 the Supreme Court of Indiana said: "Courts are bound to declare the law to be that which the General Assembly, acting within its constitutional power, enacts, be it wise or foolish as measured by our personal view, and even though it shocks our sense of justice and fairness."<sup>140</sup>

The clerk of the circuit court, in person or by deputy, performs for the circuit court the numerous statutory and customary duties of clerk. He served as clerk of the probate court (1836-53) and court of common pleas (1853-73). The court of conciliation (1853-65) had no clerk.<sup>141</sup>

The sheriff, in person or by deputy, attends the circuit court, preserves order therein, makes announcements for the court, calls witnesses to the courtroom, and executes the process of the court. He performed similar duties for the probate court (1836-53), court of common pleas (1853-73), and court of conciliation (1853-65).<sup>142</sup> Constables perform similar duties for the justices of the peace.<sup>143</sup> Bailiffs (appointed by the judge as needed) wait on the grand juries and preserve order during their proceedings and deliberations. If no bailiff is appointed, the sheriff or his deputy perform these duties.<sup>144</sup> The coroner performs these duties of the

<sup>138</sup> See the essays entitled "Circuit Court," "Probate Court (1836-53)," "Court of Common Pleas (1853-73)," and "Court of Conciliation (1853-65)."

<sup>139</sup> *Ibid.*

<sup>140</sup> State v. Brown, 213 Ind. 118, 124, 11 N. E. (2d) 679 (1937).

<sup>141</sup> See the essays entitled "Circuit Court," "Probate Court (1836-53)," "Court of Common Pleas (1853-73)," and "Court of Conciliation (1853-65)."

<sup>142</sup> *Ibid.* See the essay entitled "Sheriff."

<sup>143</sup> 2 Rev. Stat. 1852; Burns 5-601; Baldwin 1865. Acts 1905; Burns 9-710; Baldwin 2081. 2 Rev. Stat. 1852; Burns 49-3401, 49-3403, 49-3407; Baldwin 16116, 16119, 16122.

<sup>144</sup> 1 Rev. Stat. 1852, ch. 3, sec. 4. 2 Rev. Stat. 1852, ch. 6, sec. 4, p. 11. Acts 1879, ch. 51, sec. 26. Acts 1881 (Spec. Sess.), ch. 36, sec. 353; ch. 50, sec. 1. Acts 1895, ch. 145, sec. 122. Acts 1899, chs. 83, 112. Acts 1905, ch. 155. Acts 1915, ch. 172. Acts 1919, ch. 134. Acts

sheriff in the event of the absence, personal interest, or incapacity of the sheriff, or vacancy in his office.<sup>145</sup> If the coroner is also absent or incapacitated, the judge appoints an elisor to perform these duties of the sheriff.<sup>146</sup> The prosecuting attorney acts as attorney for the State in criminal cases under State laws and as attorney for the county and State in certain civil cases.<sup>147</sup> The probation officer (appointed by the judge of the circuit court for an indefinite term) makes investigations and reports in criminal and juvenile matters as directed by the court, and supervises the conduct of persons on probation.<sup>148</sup> The county director of public welfare performs duties of the probation officer when so directed by the circuit court.<sup>149</sup> The court reporter (appointed by the judge for an indefinite term) takes down in shorthand or stenotype and thereafter transcribes into type-writing, as directed by the court or the parties, the oral evidence, rulings, instructions to the jury, and other proceedings of the court.<sup>150</sup> Two jury commissioners (annually appointed by the circuit judge) prepare lists of names from which the grand juries and petit juries are drawn.<sup>151</sup> The court page (appointed by the judge for an indefinite term when needed) serves as messenger for the judge and clerk, and performs other minor duties assigned to him by the judge.<sup>152</sup>

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1921, ch. 146. Acts 1921, 1935; Burns, 1941 suppl., 4-3107; Baldwin, 1935 suppl., 1256. Acts 1905; Burns 9-1501, 9-1810; Baldwin 2246, 2290. *Adams v. State*, 214 Ind. 603, 17 N. E. (2d) 84 (1938). Op. Atty. Gen. 1939, p. 312.

<sup>145</sup> 2 Rev. Stat. 1852; Burns 49-2902; Baldwin 5437.

<sup>146</sup> 2 Rev. Stat. 1852; Burns 4-322, 4-323; Baldwin 1411, 1412.

<sup>147</sup> 2 Rev. Stat. 1852; Burns 49-2501; Baldwin 5456. *Freed v. Martin Circuit Court*, 214 Ind. 152, 14 N. E. (2d) 910 (1938); *State ex rel. Spencer v. Marion Criminal Court*, 214 Ind. 551, 15 N. E. (2d) 1920 (1938). See the essay entitled "Prosecuting Attorney."

<sup>148</sup> Acts 1903, ch. 23, sec. 2. Acts 1925, ch. 218. Acts 1941; Burns, 1941 suppl., 9-2848, 9-2849; Baldwin, 1941 suppl., 1758-20, 1758-21.

<sup>149</sup> Acts 1926 (Spec. Sess.); Burns, 1941 suppl., 52-1120; Baldwin, 1937 suppl., 14078-21. See the essay entitled "County Department of Public Welfare."

<sup>150</sup> Acts 1881 (Spec. Sess.), ch. 89. Acts 1899, 1927; Burns 4-3501 to 4-3511; Baldwin 1288 to 1292, 1298, 1298-1, 1776, 1297-1, 1293, 1300. *Adames v. State*, 214 Ind. 603, 17 N. E. (2d) 84 (1938).

<sup>151</sup> Acts 1881 (Spec. Sess.), 1899, 1913; Burns 4-3301, 4-3306; Baldwin 1266, 1270. Acts 1881 (Spec. Sess.), 1939; Burns, 1941 suppl., 4-3304; Baldwin, 1939 suppl., 1267. *Crickmore v. State*, 213 Ind. 583, 12 N. E. (2d) 266 (1938); *Johnson v. State*, 213 Ind. 659, 14 N. E. (2d) 96 (1938); *Foreman v. State*, 214 Ind. 79, 14 N. E. (2d) 546 (1938).

<sup>152</sup> *Dunn v. State ex rel. Corydon*, 204 Ind. 390, 184 N. E. 535 (1933). Op. Atty. Gen. 1939, p. 312.

Formerly juries were used in coroner's inquests, but such juries were abolished in 1879. The coroner acts in a nonjudicial capacity when holding inquests, and his findings are not binding upon any person.<sup>153</sup>

#### LAW ENFORCEMENT

The Constitution provides that all judicial officers shall be conservators of the peace in their respective jurisdiction,<sup>154</sup> and that all criminal prosecutions shall be carried on "in the name, and by the authority, of the State."<sup>155</sup>

Investigations of alleged violations of criminal law are conducted by the prosecuting attorney,<sup>156</sup> the sheriff,<sup>157</sup> or the coroner,<sup>158</sup> cooperating with one another and with State and Federal bureaus of law enforcement;<sup>159</sup> and the results of such investigations, if they point toward violations of the law, are presented to the grand jury by the prosecuting attorney.<sup>160</sup>

The prosecuting attorney or his deputy may appear before the grand jury for the purpose of interrogating witnesses or giving information relative to any matter cognizable by it or giving requested advice on any legal matter, but he cannot be present during the deliberations of the grand jury.<sup>161</sup> The grand jury consists of six members,<sup>162</sup> at least five of whom must concur in the finding of an indictment. When an indict-

<sup>153</sup> See the essay entitled "Coroner."

<sup>154</sup> Const. 1816, art. 5, sec. 5. Const. 1851, art. 7, sec. 15.

<sup>155</sup> Const. 1816, art. 5, sec. 11. Const. 1851, art. 7, sec. 18.

<sup>156</sup> 2 Rev. Stat. 1852; Burns 49-2503; Baldwin 5459. State ex rel. Spencer v. Marion Criminal Court, 214 Ind. 551, 15 N. E. (2d) 1020 (1938).

<sup>157</sup> 2 Rev. Stat. 1852; Burns 49-2802; Baldwin 5494.

<sup>158</sup> 2 Rev. Stat. 1852, Acts 1871, 1879 (Spec. Sess.), 1935; Burns, 1941 suppl., 49-2804; Baldwin, 1935 suppl., 5439.

<sup>159</sup> Acts 1927; Burns 9-2605 to 9-2610; Baldwin 15353 to 15355, 15357 to 15361.

<sup>160</sup> Acts 1905, 1927; Burns 9-806, 9-901, 9-908; Baldwin 2102, 2123, 2131.

"An inquiry of a grand jury is not limited to the consideration of that which would be admissible on the trial of a cause. Any testimony which might legally affect the finding of or refusal to find an indictment is material on a grand jury investigation." Maddox v. State, 213 Ind. 537, 12 N. E. (2d) 947 (1938).

<sup>161</sup> Acts 1905; Burns 9-826; Baldwin 2122.

<sup>162</sup> Acts 1905; Burns 9-801; Baldwin 2097.

Const. 1851, art. 7, sec. 16; art. 15, sec. 4, concerning eligibility and oath of officers, do not apply to grand jurors. Adams v. State, 214 Ind. 603, 17 N. E. (2d) 84 (1938).



ment is found by the grand jury, the foreman writes thereon the words "A true bill" and signs his name thereunder. The indictment is also signed by the prosecuting attorney.<sup>163</sup>

The prosecuting attorney conducts all prosecutions for felonies and misdemeanors charged in indictments returned by the grand jury.<sup>164</sup> He may also prosecute on affidavit all criminal offenses under the State laws, other than treason and murder.<sup>165</sup>

Actual enforcement of criminal law in the county is entrusted to the sheriff and the coroner.<sup>166</sup> The coroner performs the duties of the sheriff during his absence or incapacity. These officers make arrests in accordance with warrants issued by the circuit court or by the clerk of the circuit court, based on indictments returned by the grand jury or affidavits filed with the court.<sup>167</sup> Warrants for arrest may also be issued by the coroner, when the results of an inquest indicate that a felony was committed.<sup>168</sup> Arrest without warrant can be made for a felony, where the arresting officer has reliable information of the commission of the crime by the person arrested; and arrest without warrant can be made

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<sup>163</sup> Acts 1905; Burns 9-901; Baldwin 2123. *Neal v. State*, 214 Ind. 328, 14 N. E. (2d) 590, 15 N. E. (2d) 950 (1938).

Endorsement by prosecuting attorney. *Taylor v. State*, 113 Ind. 471, 16 N. E. 183 (1888); *Robinson v. State*, 177 Ind. 263, 97 N. E. 929 (1912); *Hamer v. State*, 200 Ind. 403, 163 N. E. 91 (1928).]

Statutory requirement that affidavits forming the basis of criminal prosecutions must be approved by the prosecuting attorney does not apply to indictments. *Peats v. State*, 213 Ind. 560, 12 N. E. (2d) 270 (1938).

<sup>164</sup> 2 Rev. Stat. 1852; Burns 49-2504; Baldwin 3460.

<sup>165</sup> Acts 1905, 1927; Burns 9-908; Baldwin 2131.

"Criminal prosecutions cannot be instituted by private individuals. They may be initiated by grand jury indictment. Formerly the only other method was on information. For this later procedure the Legislature substituted prosecutions by affidavit, approved by the prosecuting attorney." The court cannot compel the prosecuting attorney to approve such affidavit. *State ex rel. Free v. Martin* Circuit Court, 214 Ind. 152, 14 N. E. (2d) 910 (1938).

"In him [the prosecuting attorney] is vested discretionary judicial power to investigate and determine who shall be prosecuted and who shall not be prosecuted. Judges and courts cannot substitute their discretion for that of the prosecuting attorney." *State ex rel. Spencer v. Marion Criminal Court*, 214 Ind. 551, 15 N. E. (2d) 1020 (1938).

<sup>166</sup> Const. 1816, art. 4, sec. 25. Const. 1851, art. 6, sec. 2.

<sup>167</sup> 2 Rev. Stat. 1852, Acts 1933; Burns 49-2901; Baldwin 5436. Acts 1331 (Spec. Sess.); Burns 3-302; Baldwin 725.

<sup>168</sup> 2 Rev. Stat. 1852; Burns 49-2914; Baldwin 5443.



for a felony or misdemeanor committed within view of the arresting officer.<sup>169</sup> A warrant issued to the sheriff of the county in which the indictment was found or the affidavit was filed may be executed by him in any county of the State.<sup>170</sup>

In the Constitution there are many provisions for the benefit of persons accused of crime. Justice must be administered freely, and without purchase; speedily, and without delay.<sup>171</sup> The accused has a right to a public trial in the county in which the offense was committed; the right to be heard in person and by council; the right to demand the nature and cause of the accusation against him, and to have a copy thereof; the right to meet the witnesses face to face; and the right to have compulsory process for obtaining witnesses in his favor.<sup>172</sup> No person can be put in jeopardy twice for the same offense. In a criminal prosecution, no person can be compelled to testify against himself.<sup>173</sup> A person arrested or confined in jail must not be treated with unnecessary rigor.<sup>174</sup> Excessive bail must not be required. Excessive fines must not be imposed. Cruel and unusual punishments must not be inflicted. All penalties must be proportioned to the nature of the offense.<sup>175</sup> Offenses other than murder and treason are always bailable by sufficient sureties. Murder and treason are bailable unless the proof of guilt is evident or the presumption of guilt is strong.<sup>176</sup> The penal laws of Indiana are founded on the principles of reformation, and not of vindictive justice.<sup>177</sup> In all criminal cases the jury has the right to determine both the law and the facts.<sup>178</sup> The privilege of the writ of habeas corpus (to obtain release from unlawful detention) cannot be suspended, except in case of rebellion or invasion; and then only if the public safety

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<sup>169</sup> *Doering v. State*, 49 Ind. 56, 19 Am. Rep. 669 (1874); *Hart v. State*, 195 Ind. 384, 145 N. E. 449 (1924).

<sup>170</sup> Acts 1905, 1937; Burns, 1941 suppl., 9-1001; Baldwin, 1937 suppl., 2134.

<sup>171</sup> Const. 1851, art. 1, sec. 12.

Discharge for delay in prosecution. Acts 1905; Burns 9-1403, 9-1404; Baldwin 2239, 2240. *Sullivan v. State*, 215 Ind. 343, 19 N. E. (2d) 739 (1939).

<sup>172</sup> Const. 1851, art. 1, sec. 13.

<sup>173</sup> *Ibid.*, sec. 14.

<sup>174</sup> *Ibid.*, sec. 15.

<sup>175</sup> *Ibid.*, sec. 16.

<sup>176</sup> *Ibid.*, sec. 17.

<sup>177</sup> *Ibid.*, sec. 18.

<sup>178</sup> *Ibid.*, sec. 19.

demands such suspension.<sup>179</sup> No conviction can "work corruption of blood or forfeiture of estate."<sup>180</sup> The Governor has power to grant reprieves, commutations, and pardons, and to remit fines and forfeitures.<sup>181</sup>

The county jail is maintained by the county,<sup>182</sup> the sheriff being responsible for its management.<sup>183</sup> Inspection or investigation is made by the grand jury at the beginning of each regular session,<sup>184</sup> and by the board of commissioners every 3 months.<sup>185</sup>

## FINANCE

### APPROPRIATIONS AND BUDGETS

The power of making appropriations of money to be paid out of the county treasury has been vested exclusively in the county council since 1899.<sup>186</sup> Before 1899 the board of commissioners performed the duties now performed by the county council.<sup>187</sup>

No money can be drawn from the county treasury not in pursuance of appropriation therefor,<sup>188</sup> except in the following instances: (a) Money belonging to the State and commanded by law to be paid into the State treasury; (b) money belonging to any school fund; (c) money belonging to any fund of any township, town, or city, and commanded by law to be paid to such municipality; (d) money, due to any person, which has been paid into the county treasury pursuant to public improvement assessments on persons or property of the county in territory less than the whole county; (e) money, due to any person, which has been paid into the treasury for redemption from any tax or other sale; or money so due that has been paid in pursuant to authority of law as a tender or payment to such person; (f) taxes erroneously paid; (g) funds received

<sup>179</sup> *Ibid.*, sec. 27.

<sup>180</sup> *Ibid.*, sec. 30.

<sup>181</sup> *Ibid.*, art. 5, sec. 17.

<sup>182</sup> 1 Rev.Stat. 1852; Burns 13-1001; Baldwin 13448.

<sup>183</sup> 1 Rev. Stat. 1852; Burns 13-1004; Baldwin 13453.

<sup>184</sup> 1 Rev. Stat. 1852; Burns 13-1002; Baldwin 13449.

<sup>185</sup> Acts 1909; Burns 13-1008; Baldwin 13460.

<sup>186</sup> Acts 1899; Burns 26-515; Baldwin 5379. *Thirty-ninth Annual Conference of Indiana Tax*

*Board*, pp. 8-14.

<sup>187</sup> 1 Rev. Stat. 1852, ch. 6, sec. 1; ch. 20, secs. 13, 16, 17, 18, 21, 22.

<sup>188</sup> Acts 1899; Burns 26-515; Baldwin 5379.

from the State or Federal Governments for welfare assistance or public work projects;<sup>189</sup> and (h) salaries fixed by law.<sup>190</sup>

Before the Thursday following the first Monday in August each year, the various officials of the county (including township trustees or assessors) submit to the auditor estimates of expenditures for the ensuing calendar year and estimates of probable revenue to be received from the State during that period. The estimates are kept on file in the auditor's office, subject to inspection by any taxpayer of the county. The auditor publishes notice of the aggregate amount of each of such estimates, and prepares an ordinance making an appropriation by items for the ensuing calendar year for the various purposes for which all of the estimates are required. At the annual meeting of the county council on the first Tuesday after the first Monday in September, the auditor submits all of the estimates to the county council and makes recommendations with reference thereto. The council, at that meeting, considers the estimates and the proposed ordinance, and makes such changes as are deemed necessary. A three-fourths vote is required to make appropriation for any item not contained in any estimate or for a greater amount than that named in any item of any estimate. The ordinance making the appropriation for the ensuing year is adopted after being read on at least 2 separate days. This appropriation is called the annual county budget, and the estimates of expenditures and revenue are called budget estimates.<sup>191</sup>

If an emergency arising after the adjournment of the annual meeting requires funds supplementary to those originally included in the annual budget, additional appropriations may

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<sup>189</sup> Acts 1899, 1935; Burns, 1941 suppl., 26-522; Baldwin, 1935 suppl., 5386.

<sup>190</sup> *Blue v. State ex rel. Powell*, 210 Ind. 486, 1 N. E. (2d) 122 (1936).

Salaries fixed by judge of circuit court for bailiff and page. *Op. Atty. Gen.* 1939, p. 312.

<sup>191</sup> Acts 1899; Burns 26-516 to 26-520; Baldwin 5380 to 5384. Acts 1919, 1920 (Spec. Sess.), 1921, 1927, 1935; Burns, 1941 suppl., 64-1331, 64-1339; Baldwin, 1935 suppl., 15735, 15737-1.

Appropriations can be made only by the passage of ordinances. *State ex rel. Davis v. Board of County Comrs.*, 165 Ind. 262, 74 N. E. 1091 (1905).

The statutory provision requiring an ordinance for an appropriation to be read on 2 separate days is mandatory, and on failure to comply therewith the ordinance is invalid. *Van Der Veer v. State ex rel. Herron*, 97 Ind. App. 1, 165 N. E. 265 (1929).

The surveyor's budget estimates of costs of maintenance of roads is under the control of the board of commissioners, and may be changed at any time by the board without the approval of the surveyor or the county highway supervisor. *Bateman v. State*, 214 Ind. 138, 14 N. E. (2d) 1007 (1938).

be made in an ordinance passed by a two-thirds vote of all the members of the council at a special meeting, after estimates are prepared and submitted in the manner required for annual estimates. If the aggregate amount of the requested appropriation exceeds \$15,000, the ordinance must be read on 2 separate days before passage.<sup>192</sup> Such additional appropriations must be approved by the State Tax Board.<sup>193</sup>

When any item of appropriation remains unexpended at the end of the calendar year for which it was appropriated, the amount thereof reverts to the general fund of the county, and no warrant can be drawn thereon. However, time for withdrawal is extended where payment was withheld during such year because of an injunction which was later dissolved.<sup>194</sup> It is unlawful to overdraw the amount of any item of appropriation or to use the funds of any item for an unauthorized purpose.<sup>195</sup>

No county official or court has power to bind the county by any contract, express or implied, to any extent beyond the amount of money at the time already appropriated by ordinance for the purpose of the obligation attempted to be incurred.<sup>196</sup>

## TAXATION

The power of taxation is inherent in the State, and is a legislative power limited only by the provisions of the Con-

<sup>192</sup> Acts 1937; Burns, 1941 suppl., 26-521; Baldwin, 1937 suppl., 5385.

The council's determination of emergency is not conclusive on the courts. State ex rel. Kautz v. Board of County Comrs., 204 Ind. 484, 184 N. E. 780 (1933).

The words "emergency growing out of a flood, fire, pestilence, war, or other major disaster" are used in Acts 1937; Burns, 1941 suppl., 64-312; Baldwin, 1937 suppl., 15897-6.

Provisions concerning township poor relief and public welfare services. Acts 1935; Burns, 1941 suppl., 52-174; Baldwin, 1935 suppl., 13320-31. Acts 1936 (Spec. Sess.); Burns, 1941 suppl., 52-1303; Baldwin, 1937 suppl., 14078-100. O'Rourke v. Board of County Comrs., 215 Ind. 195, 18 N. E. (2d) 380 (1939).

<sup>193</sup> Acts 1919, 1920 (Spec. Sess.), 1921, 1927, 1935; Burns, 1941 suppl., 64-1331; Baldwin, 1935 suppl., 15735.

<sup>194</sup> Acts 1899, 1903, 1905; Burns 26-524; Baldwin 5388.

<sup>195</sup> Acts 1899; Burns 26-523; Baldwin 5387. Acts 1899, 1935; Burns, 1941 suppl., 26-522; Baldwin, 1935 suppl., 5386.

<sup>196</sup> Acts 1899; Burns 26-525, 26-527; Baldwin 5389, 5391. Op. Atty. Gen. 1939, p. 312.

But lack of appropriation does not prevent entry of a judgment binding the county, where the court has jurisdiction of the parties and subject matter of the action. Acts 1899; Burns 26-527; Baldwin 5391. Board of County Comrs. v. McGregor, 171 Ind. 634, 87 N. E. 1 (1909).



stitution.<sup>197</sup> The Constitution provides that "The General Assembly shall provide, by law, for a uniform and equal rate of assessment and taxation; and shall prescribe such regulations as shall secure a just valuation for taxation of all property, both real and personal, excepting such only for municipal, educational, literary, scientific, religious, or charitable purposes, as may be specially exempted by law."<sup>198</sup> This section applies only to a general assessment on property according to its value, and does not apply to excise taxes.<sup>199</sup> Exemptions are discussed hereinafter. In construing tax statutes, a liberal rule of interpretation must be indulged in to aid the taxing power of the State.<sup>200</sup>

In Indiana there are poll taxes, excise taxes, and property taxes. A poll tax is a tax assessed on the person. An excise tax is a tax on privileges, and includes taxes on occupations, inheritance, sale of gasoline, and the like. Laws imposing excise taxes are sometimes called "internal revenue laws." The property tax (also known as ad valorem tax) is the tax on real and personal property based on value, and it constitutes the largest part of the county revenue. Property may be subject to an excise tax and also a property tax. Excise taxes administered by county officers are discussed hereinafter under the heading "Excise Taxes and Licensing."

In each township having a population not exceeding 5,000 (all townships except Rochester), the office of township assessor has been abolished, and the duties of such office are performed by the township trustee. Reference herein to the township assessor includes the township trustee performing the duties prescribed by statutes for township assessors.<sup>201</sup>

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<sup>197</sup> State ex rel. Goodman v. Halter, 149 Ind. 292, 47 N. E. 665 (1897); Dunn v. Indianapolis, 208 Ind. 630, 196 N. E. 528 (1935); Miles v. Department of Treasury, 209 Ind. 172, 199 N. E. 372 (1935); State ex rel. Jackson v. Middleton, 215 Ind. 219, 19 N. E. (2d) 470 (1939). *Thirty-eighth Annual Conference of Indiana Tax Board*, pp. 75-89.

<sup>198</sup> Const. 1851, art. 10, sec. 1.

The legislative power to exempt from taxation extends only to property "for municipal, education, literary, scientific, religious or charitable purposes." Stark v. Kreyling, 207 Ind. 128, 188 N. E. 680 (1934). Op. Atty. Gen. 1939, p. 62.

<sup>199</sup> State Bd. of Tax Comrs. v. Jackson, 283 U. S. 527, 75 L. Ed. 1248, 51 Sup. Ct. 540 (1931); Miles v. Department of Treasury, 209 Ind. 172, 199 N. E. 372 (1935); Davis v. Sexton, 210 Ind. 138, 200 N. E. 233 (1936).

<sup>200</sup> Department of Treasury v. Dietzen, 215 Ind. 528, 21 N. E. (2d) 137 (1939).

<sup>201</sup> Acts 1933; Burns 64-1031; Baldwin 15664.

Vacancy caused by death of township assessor. Op. Atty. Gen. 1939, p. 243.



A poll tax is assessed on every male inhabitant of the State between the ages of 21 and 50 years, and every such person must be listed for his poll tax in the township, town, or city of his residence.<sup>202</sup> Poll tax exemptions are allowed to volunteer firemen<sup>203</sup> and former soldiers and sailors receiving service-connected disability compensation.<sup>204</sup> Before 1919 the board of commissioners could grant poll tax exemptions because of inability to pay.<sup>205</sup> The auditor certifies to the city officials the number of taxable polls therein,<sup>206</sup> and adds omitted polls to the tax duplicate.<sup>207</sup> Poll taxes are collected by the county treasurer. A poll tax receipt must be presented to any licensing authority to obtain an occupation license required by State law, a motor vehicle operator's or chauffeur's license, a motor vehicle license, or a certificate of title for a motor vehicle.<sup>208</sup>

The property tax laws are administered by the township assessors, county assessor, auditor, treasurer, board of review, county council, and board of tax adjustment, under the supervision of the Indiana Tax Board.<sup>209</sup> The Indiana Tax Board prescribes rules and forms for the subordinate tax officials and instructs them concerning their duties.<sup>210</sup> It makes original assessments of certain classes of property of railroads, telephone companies, and other public utilities,<sup>211</sup>

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<sup>202</sup> Acts 1919; Burns 64-102; Baldwin 15515.

<sup>203</sup> 1 Rev. Stat. 1852, ch. 41, sec. 3. Acts 1933, ch. 91, sec. 1. Acts 1935, ch. 302, sec. 1. Acts 1939; Burns, 1941 suppl., 48-6161; Baldwin, 1939 suppl., 12653-1.

<sup>204</sup> Acts 1923; Burns 45-1210; Baldwin 10917. Acts 1919, 1920 (Spec. Sess.), 1921, 1923, 1937; Burns, 1941 suppl., 64-201, 64-220; Baldwin, 1937 suppl., 15518, 15515-1.

Before 1937 exemption was granted to all militiamen, soldiers, and sailors in active service. Acts 1919, 1920 (Spec. Sess.), 1921, 1923; Burns 64-201; Baldwin 15518.

<sup>205</sup> 1 Rev. Stat. 1852, ch. 20, sec. 30 (repealed by Acts 1919, ch. 59, sec. 2). Op. Atty. Gen. 1936, p. 83.

<sup>206</sup> Acts 1905, 1911; Burns 48-6708; Baldwin 11516.

<sup>207</sup> Acts 1919; Burns 64-2102; Baldwin 15803.

<sup>208</sup> Acts 1931; Burns 42-103, 42-105; Baldwin 10500, 10503. Acts 1931, 1941; Burns, 1941 suppl., 42-102, 42-104; Baldwin, 1941 suppl., 10499, 10501.

<sup>209</sup> Information obtained from Philip Zoercher, chairman of the Indiana Tax Board, on May 18, 1939, by W. Davis Hamilton. See the authorities cited hereinafter under specific text statements.

<sup>210</sup> Acts 1919, 1921; Burns 64-1309, 64-2803, 64-2806; Baldwin 15713, 15866, 15869. *Thirty-ninth Annual Conference of Indiana Tax Board*, pp. 22-30, 53, 54, 102, 103, 123-139.

<sup>211</sup> The Indiana Tax Board assesses property of the following companies: Railroad, telephone, express, telegraph, sleeping car, pipe line, car equipment (tank, refrigerator, freight),

and supervises and reviews assessments, appropriations, and levies of the subordinate tax officials.<sup>212</sup>

The principal steps in property taxation, stated in their chronological order, are assessment, budget, levy, and collection. The assessment is the determination of what property is taxable and the value thereof. The budget is the appropriation of money for expenditures for the next calendar year. The levy is the charging of a certain amount of taxes against each \$100 of assessed valuation to raise the money required for the budget. The collection involves the voluntary payment and also proceedings to compel payment.<sup>213</sup>

Assessment of real and personal property for county purposes also serves as the assessment for State, township, city, and town purposes.<sup>214</sup> Personal property is assessed each year as of the first day of March.<sup>215</sup> Though real estate is not reassessed every year (the old assessment remaining in effect until changed), the lien for taxes thereon dates from March 1.<sup>216</sup> All taxable property, real and personal, is required to be assessed at the true cash value thereof.<sup>217</sup>

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and "public utility" (heat, light, water, power, elevator, and warehouse service).

In case of railroads, the Indiana Tax Board assesses the railroad track and the rolling stock. Local authorities assess personal property that has a fixed location and also real estate outside of the property denominated "railroad track."

The Indiana Tax Board assesses the personal and intangible properties of the other specified companies. Their other property is assessed by local authorities.

Car equipment companies pay a tax of 2 percent on their assessed value direct to the State Department of Treasury.

Except as to the car equipment companies, the assessment of the Indiana Tax Board is certified to the county auditor who apportions it among the several townships, towns, and cities entitled to a levy thereon, and places such assessments on the tax duplicate; and thereafter the tax is collected by the county treasurer. Acts 1919, 1921, 1923, 1932 (Spec. Sess.); Burns 64-703 to 64-740; Baldwin 15617 to 15654. *Thirty-ninth Annual Conference of Indiana Tax Board*, pp. 14-21.

<sup>212</sup> Acts 1919, 1920 (Spec. Sess.), 1921, 1923, 1925, 1927, 1931; Burns 64-1301 to 64-1338; Baldwin 15705 to 15737, 12490 to 12492, 12522, 12527. Acts 1935; Burns, 1941 suppl., 64-1313, 64-1321, 64-1324, 64-1325, 64-1331; Baldwin, 1935 suppl., 15717, 15725, 15728, 15729, 15735.

<sup>213</sup> Information obtained from Philip Zoercher, chairman of the Indiana Tax Board, on May 18, 1939, by W. Davis Hamilton.

<sup>214</sup> Acts 1919; Burns 64-2814; Baldwin 15877.

<sup>215</sup> Acts 1919; Burns 64-103, 64-401, 64-403; Baldwin 15516, 15524, 15526.

<sup>216</sup> Acts 1919, 1920 (Spec. Sess.); Burns 64-2825; Baldwin 15886.

<sup>217</sup> Acts 1919; Burns 64-103, 64-1009; Baldwin 15516, 15675. Acts 1937; Burns, 1941 suppl., 64-1019b; Baldwin, 1937 suppl., 15685-2. *Thirty-ninth Annual Conference of Indiana Tax Board*, pp. 54-85.

Since personal property and real property are assessed differently, they will be discussed separately, beginning with personal property.

Personal property must be listed for taxation between March 1 and May 15 each year, with reference to the quantity and quality owned on March 1.<sup>218</sup> Each township assessor calls on the taxpayers and furnishes them blanks for listing personal property. The taxpayer must list, under oath, all personal property held, possessed, or controlled by him, and state what he deems the true cash value of each item. Ordinarily the valuation of the taxpayer is accepted if it is in reason, but the assessor may fix a different valuation. If no list is given by the taxpayer or if the assessor doubts the correctness of the list, he may examine, under oath, the taxpayer and other persons concerning such property, and set down and assess to such person such amount of personal property as he may deem just.<sup>219</sup> If the taxpayer refuses to make a return or oath required by law, the assessor makes a notice of such refusal, and the auditor adds 50 percent to the valuation returned by the assessor.<sup>220</sup>

After giving notice to the taxpayer, omitted personal property may be assessed by the township assessor,<sup>221</sup> county assessor,<sup>222</sup> auditor,<sup>223</sup> or board of review;<sup>224</sup> and appeal from such assessment may be taken to the circuit court, on the question of whether such omitted property is taxable.<sup>225</sup>

The county assessor advises and instructs all township assessors in the county; and for this purpose visits each township assessor during March and April each year. The county assessor endeavors to cause uniformity and equality of assessment by the several township assessors. The county assessor and the township assessors may be removed by the Indiana Tax Board for incompetency or neglect of duty.<sup>226</sup>

<sup>218</sup> Acts 1919; Burns 64-401; Baldwin 15524.

<sup>219</sup> Acts. 1919; Burns 64-601 to 64-604, 64-610; Baldwin 15569 to 15572, 15578. *Thirty-ninth Annual Conference of Indiana Tax Board*, pp. 22-30, 53, 54, 102, 103, 123-139.

<sup>220</sup> Acts 1919; Burns 64-610; Baldwin 15578.

<sup>221</sup> Acts 1919; Burns 64-1025; Baldwin 15692.

<sup>222</sup> Acts 1919; Burns 64-1102; Baldwin 15698.

<sup>223</sup> Acts 1919; Burns 64-1402, 64-2102; Baldwin 15739, 15803.

<sup>224</sup> Acts 1919, 1920 (Spec. Sess.); Burns 64-1201; Baldwin 15700.

<sup>225</sup> Acts 1919, 1927; Burns 64-2103; Baldwin 15804. Information obtained from Philip Zoercher, chairman of the Indiana Tax Board, on May 18, 1939, by W. Davis Hamilton.

<sup>226</sup> Acts 1919, 1921; Burns 64-1001, 64-1102; Baldwin 15666, 15698.

Death of township assessor. Op. Atty. Gen. 1939, p. 243.

The board of review, after giving 2 weeks' notice, meets on the first Monday in June each year. The board reviews the assessment of personal property, hears complaints of owners, reduces or increases valuations, equalizes valuations, corrects and completes the tax lists, and assesses omitted property. Notice must be given by the auditor to the owner before the board of review assesses omitted property or raises valuations.<sup>227</sup> Any person dissatisfied with the decision of the board of review may appeal to the Indiana Tax Board. Hearings on such appeals are, when possible, held in the auditor's office in the county from which the appeal was taken. The amount fixed by the Indiana Tax Board is the final assessment of such property.<sup>228</sup>

The county auditor, on or before March 1 each year, makes out and delivers to the township assessors lists of lands entered on the tax duplicates of the previous year, with notations thereon showing all transfers made subsequent to the duplicate and all new entries of land not previously entered for taxation.<sup>229</sup>

The auditor makes plats of the several townships showing ownership, improvements, and assessed valuation of the parcels of real estate therein. The township assessors write on such plats the ownership and value of each plot of ground and the improvements thereon, and the plat is kept up with all current transactions and transfers.<sup>230</sup> For taxation purposes, the auditor keeps a transfer book, arranged by townships, cities, and towns, showing description of all lands conveyed by deed or partition, names of parties, and post-office addresses of grantees.<sup>231</sup> On the death of a landowner, the heir or devisee may have the auditor make an entry on the tax duplicate to show the change of ownership.<sup>232</sup>

Each township assessor is required to call on every person residing in his township for a list of lands owned by such person in such township subject to taxation. The improvements on such lands should be described, and any change of improvements since March 1 of the previous year should

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<sup>227</sup> Acts 1919, 1920 (Spec. Sess.); Burns 64-1201; Baldwin 15700.

<sup>228</sup> Acts 1919, 1935; Burns, 1941 suppl., 64-1321; Baldwin, 1935 suppl., 15725. Indiana Tax Board, *Tax Rule 6*.

<sup>229</sup> Acts 1919, 1937; Burns, 1941 suppl., 64-1007; Baldwin, 1937 suppl., 15672.

<sup>230</sup> *Ibid.*

<sup>231</sup> Acts 1919; Burns 64-1409; Baldwin 15746.

<sup>232</sup> Acts 1921; Burns 64-519; Baldwin 14777.



be stated. If such person fails to furnish such list within 5 days after being called on, as notified to do, the assessor may make the list according to the best information he can obtain, and the auditor must add 25 percent to the assessor's valuation of such person's lands or improvements which were not assessed for taxation the previous year. On or before the first Monday in June in each year, the assessor must make out and deliver to the auditor, in a book furnished by him, a return of all real estate so listed.<sup>233</sup>

Reassessment of lots, lands, or improvements can be made only when authorized by the Indiana Tax Board. If improvements are destroyed or removed, or if the value of improvements is reduced by substantial changes, the taxpayer should apply to the Indiana Tax Board for an order for reassessment, since the local officials cannot remove improvements from the tax lists and books or reduce the assessment of improvements without such order for reassessment. The assessments mentioned in the next paragraph below may be made without an order from the Indiana Tax Board. The last general reassessment of the real estate in Indiana was made in 1932.<sup>234</sup>

Each person authorized to make assessment valuations of real estate for taxation is charged with the duty of correcting tax book errors as to description of property and name of owner. A notation is made showing any change of ownership since the last assessment. Each township assessor, after giving notice to the occupant of the property or the resident of the county claiming ownership, each year assesses any lots, lands, or improvements found omitted, and makes a return thereof to the auditor as of the year when the same should have been first assessed.<sup>235</sup> The county assessor,<sup>236</sup> auditor,<sup>237</sup> and board of review<sup>238</sup> also have power to assess

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<sup>233</sup> Acts 1919; Burns 64-1008, 64-1009, 64-1013, 64-1015, 64-1016; Baldwin 15674, 15675, 15679, 15681, 15682. *Thirty-ninth Annual Conference of Indiana Tax Board*, pp. 22-30, 53, 54, 102, 103, 123-139. See the following footnote.

<sup>234</sup> Acts 1919, 1925, 1927, 1935, 1937; Burns, 1941 suppl., 64-1019; Baldwin, 1937 suppl., 15685. *Thirty-ninth Annual Conference of Indiana Tax Board*, pp. 54-85. Information obtained from Philip Zoercher, chairman of the Indiana Tax Board, on March 29, 1940, by W. Davis Hamilton.

<sup>235</sup> Acts 1919, 1925, 1927, 1935, 1937; Burns, 1941 suppl., 64-1019; Baldwin, 1937 suppl., 15685. Acts 1919; Burns 64-1025; Baldwin 15692.

<sup>236</sup> Acts 1919; Burns 64-1102; Baldwin 15698.

<sup>237</sup> Acts 1919; Burns 64-1402, 64-2102; Baldwin 15739, 15803.

<sup>238</sup> Acts 1919, 1920 (Spec. Sess.); Burns 64-1201; Baldwin 15700.



such omitted property after giving notice. The auditor makes assessment of any newly platted additions to any city or town.<sup>239</sup> Such assessments by the township assessors, county assessor, and auditor may be reviewed and revised at the next meeting of the board of review.<sup>240</sup> The decisions of the board of review in reviewing such assessments or in making original assessments of omitted lots, lands, or improvements may be reviewed by the Indiana Tax Board in the manner provided for review of decisions concerning personal property, discussed above.<sup>241</sup> From any assessment of omitted lots, lands, or improvements, appeal may be taken to the circuit court on the question of such property's taxability.<sup>242</sup>

In case of flood, fire, or other disaster in which a substantial amount of property in any township has been partially or totally destroyed, the Indiana Tax Board must order a survey, determine the locality in which the property has been partially or totally destroyed, and order reassessment of all or part of the property in such township.<sup>243</sup>

The Indiana Tax Board, after March 31 of a year in which a general election is not held, may, without petition of taxpayers, order a hearing on the necessity of reassessment for the whole State or for any of the counties or townships thereof. A hearing is held, after notice thereof, in each county in which the affected property is located. The board may then order reassessment.<sup>244</sup>

Any person may, before March 31 in any year, file with the Indiana Tax Board a petition for reassessment of his real estate. At the hearing, the petitioner must show cause for reassessment. Other taxpayers may be heard in opposition. The board may then order the requested reassessment. This is the only method for obtaining reassessment of particular real estate.<sup>245</sup>

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<sup>239</sup> Acts 1919; Burns 64-1027; Baldwin 15691.

<sup>240</sup> Acts 1919, 1920 (Spec. Sess.); Burns 64-1201, 64-1205; Baldwin 15700, 15704.

<sup>241</sup> Acts 1919, 1935; Burns, 1941 suppl., 64-1321; Baldwin, 1935 suppl., 15725. Indiana

Tax Board, *Tax Rule 6*.

<sup>242</sup> Acts 1919, 1927; Burns 64-2103; Baldwin 15804. Information obtained from Philip

Zoercher, chairman of the Indiana Tax Board, on May 18, 1939, by W. Davis Hamilton.

<sup>243</sup> Acts 1919, 1925, 1927, 1935, 1937; Burns, 1941 suppl., 64-1019(c); Baldwin, 1937 suppl., 15685(c).

<sup>244</sup> Acts 1919, 1925, 1927, 1935, 1937; Burns, 1941 suppl., 64-1019(b); Baldwin, 1937 suppl., 15685(b).

<sup>245</sup> Acts 1919, 1925, 1927, 1935, 1937; Burns, 1941 suppl., 64-1019(d); Baldwin, 1937 suppl., 15685(d).

A petition for reassessment of all real estate in a township, signed by the necessary percentage—it varies in different townships—of the resident owners of taxable real estate of such township and bearing a certificate of the auditor as to the required number of signers, may be filed with the Indiana Tax Board before March 31, in any year in which there is no general election of State, county, or township officials. If it appears to the board that the petition is in proper order and that the present valuation is inequitable, the board will order reassessment of all or part of the real estate in the township.<sup>246</sup>

Within ten days after the valuation of real or personal property is determined by the board of review or Indiana Tax Board, the owner may appeal to the circuit court on questions of law concerning such valuation.<sup>247</sup>

There are a great many statutory provisions concerning exemptions from property taxes, and space will permit only a brief discussion thereof. The following property is exempt from property taxes: Property of the United States and the State of Indiana; property of any county, city, town or township; lands granted for the use of the common schools; real and personal property (including dormitories) actually used by schools and colleges; property used (or devised to be used) exclusively for educational, literary, scientific, religious, or charitable purposes; property of agricultural associations, cemetery associations, and soldiers and sailors' memorial associations; property of the American Legion, Young Men's Christian Association, Knights of Columbus, and similar associations; property of fraternal beneficiary associations, college fraternities, and college sororities; historical sites maintained for nonprofit public exhibition; property used exclusively for the purpose of a public library; property owned and used exclusively by the Indiana National Guard or other military organization for armory purposes; bonds and notes issued by any municipality or taxing district of the State for certain purposes; and certain annuities payable by religious or charitable organizations.<sup>248</sup> Sworn statements

<sup>246</sup> Acts 1919, 1925, 1927, 1935, 1937; Burns, 1941 suppl., 64-1019(a); Baldwin, 1937 suppl., 15685(a).

<sup>247</sup> Acts 1927; Burns 64-1020; Baldwin 15686.

<sup>248</sup> Acts 1941, ch. 95, sec. 1. Acts 1919, 1920 (Spec. Sess.), 1921, 1923, 1937; Burns, 1941 suppl., 64-201; Baldwin, 1937 suppl., 15518.

Property of cities and towns. Acts 1939; Burns, 1941 suppl., 61-221; Baldwin, 1939 suppl., 15518-5. Op. Atty. Gen. 1939, p. 62.

must be filed with the auditor on or before the first day of March each year to obtain exemptions of property other than the following: Property owned by the State of Indiana, the United States, municipal corporations, and political subdivisions of the State; and property owned and used by churches, State-accredited schools, State accredited charitable institutions, hospitals, and college fraternities and sororities.<sup>249</sup>

Any Indiana resident owning real estate encumbered by a mortgage may have the amount of the mortgage existing and unpaid on the first day of March, not exceeding \$1,000 and not exceeding one-half of the assessed valuation, deducted from the assessed valuation for that year, by filing with the auditor between the first day of March and the first Monday in May a sworn statement in the form required by law.<sup>250</sup>

The county auditor, not later than September 1 each year, apportions the final assessment of real and personal property among the several taxing units of the county and certifies the same to the county, township, cities, and towns for the purpose of making tax levies based thereon.<sup>251</sup>

The county council, at its annual meeting in August, adopts a budget, establishes the tax rate, and makes tax levies for the succeeding calendar year. The auditor then schedules the rates for the several municipal corporations in the county, verifies the figures and calculations, and reports the levies to the Indiana Tax Board.<sup>252</sup>

Municipally owned utility is taxable to the extent it is used in a proprietary capacity. *Borgman v. Fort Wayne*, 215 Ind. 201, 18 N. E. (2d) 762 (1939).

Farms operated by colleges and hospitals. *Op Atty. Gen.* 1939, p. 146.

Bridge across Ohio River. *Ibid.*, p. 294.

Disabled soldiers, sailors, marines, and nurses, and the widows of such soldiers, sailors, or marines. Acts 1927; Burns 64-205 to 64-207; Baldwin 10986 to 10988. Acts 1941; Burns, 1941 suppl., 64-223, 64-224; Baldwin, 1941 suppl., 15521-1, 15521-2.

<sup>249</sup> Acts 1937; Burns, 1941 suppl., 64-213, 64-215; Baldwin, 1937 suppl., 15518-2, 15518-4.

<sup>250</sup> Acts 1919, 1939; Burns, 1941 suppl., 64-209 to 64-211; Baldwin, 1939 suppl., 15565 to 15567. *Op. Atty. Gen.* 1939, p. 123. *Thirty-eighth Annual Conference of Indiana Tax Board*, pp. 64-74. Under the 1919 act the owner was not required to be a resident of Indiana in order to obtain a mortgage exemption. Acts 1919; Burns 64-209; Baldwin 15565.

<sup>251</sup> Acts 1919, 1920 (Spec. Sess.); Burns 64-1329; Baldwin 15733.

<sup>252</sup> Acts 1889; Burns 26-516 to 26-520; Baldwin 5380 to 5384. Acts 1920 (Spec. Sess.); Burns 64-1329; Baldwin 15733. Acts 1919; Burns 64-1330; Baldwin 15734. Acts 1919, 1920 (Spec. Sess.), 1921, 1927, 1935; Burns, 1941 suppl., 64-1331, 64-1339; Baldwin, 1935, suppl., 15735, 15737-1.

Appeal from the action of the county council may be taken to the Indiana Tax Board. That board, after hearing the objections, may affirm or decrease the total tax levy on any item thereof. The decision of the board, which is final and conclusive "with respect to said levies and such parts thereof as may have been in question," is certified to the auditor, and the auditor certifies it to the taxing units interested therein. When the Tax Board orders a reduction in the levy, it indicates the items in the budget affected by such reduction; and this limits the expenditures for the year, except in cases of extraordinary emergency.<sup>253</sup>

The laws discussed in the next four paragraphs do not apply to levies and rates to meet the following liabilities: (a) Funding, refunding, or judgment funding obligations; (b) "outstanding obligations"; (c) judgments; (d) obligations issued to meet emergency growing out of flood, fire, pestilence, war, or other major disaster; (e) obligations issued on petition under this act; or (f) requirements of the county welfare fund for public welfare services. It is the duty of the county council to levy an amount sufficient to meet such purposes, regardless of any statutory provisions to the contrary.<sup>254</sup>

Except on authorization of the Indiana Tax Board, the total tax rate for all purposes other than those stated in the preceding paragraph cannot exceed \$1.25 on each \$100 of taxable property outside incorporated cities and towns or \$2 on each \$100 of taxable property inside incorporated cities and towns.<sup>255</sup>

At least 2 days before the second Monday in September, each municipal corporation<sup>256</sup> of the county files with the county auditor a statement of the tax levies and rates for the ensuing year, fixed by such municipal corporation, and at least two copies of the budgets on which such levies are based.<sup>257</sup> The board of tax adjustment meets on the second

<sup>253</sup> Acts 1919, 1920 (Spec. Sess.), 1921, 1927, 1935; Burns, 1941 suppl., 64-1331; Baldwin, 1935 suppl., 15735.

<sup>254</sup> Acts 1937; Burns, 1941 suppl., 64-312, 64-313; Baldwin, 1937 suppl., 15897-6, 15897-7.

<sup>255</sup> Acts 1937; Burns, 1941 suppl., 64-309; Baldwin, 1937 suppl., 15897-3.

<sup>256</sup> The term "municipal corporation" includes counties, townships, cities, towns, school districts, sanitary districts, park districts, and all taxing units within the State. Acts 1937; Burns, 1941 suppl., 74-308; Baldwin, 1937 suppl., 15897-2.

<sup>257</sup> Acts 1937; Burns, 1941 suppl., 64-311; Baldwin, 1937 suppl., 15897-5.



Monday of September each year. At that meeting the auditor lays before the board these budgets, tax levies, and rates.<sup>258</sup> It is the duty of the board of tax adjustment to examine, revise, change, or reduce (but not increase) any budget, tax levy, or rate, and to hold such budget within the total amount of revenue to be raised therefor from any source whatever. Any changes in budgets must be with respect to the total amounts budgeted for each office, and not the detailed items included in such budgeted classifications. While the board of tax adjustment endeavors to keep the rates within the limits above stated, if it decides that such rates are inadequate, it certifies to the Indiana Tax Board its analysis and recommendations together with such data and facts as may be deemed essential to review. The Indiana Tax Board (proceeding according to the provisions governing appeals) then reviews the budgets and may authorize rates beyond the said limits.<sup>259</sup>

If the board of tax adjustment does not complete its duties before October 2, or fails to reduce the aggregate amount of the levies and rates to the statutory limits aforesaid (\$2 per \$100 in cities and towns and \$1.25 per \$100 in other places), then the auditor calculates and fixes the rates, so that the total tax rate on property within any municipal corporation does not exceed said limits, and certifies his action to each municipal corporation before October 6. Appeal to the Indiana Tax Board may be taken before October 16 by the municipal corporation or by 10 or more taxpayers. On the hearing of such appeals, the Indiana Tax Board "may revise, change, or increase" the levy and rate in respect to total amounts budgeted by each office or department, but not as to detailed items. The levy and rate must be kept within the limit originally fixed by the municipal corporation. The Indiana Tax Board certifies its decision to the county auditor before December 1, if possible. The budget, levy, and rate thereby fixed are final.<sup>260</sup>

After the budget, levy, and rate for each municipal corporation have been finally fixed and determined, as aforesaid, the appropriating body of each municipal corporation allocates the funds to be derived from such levy in such manner that the expenditures for the ensuing year will remain within the

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<sup>258</sup> Acts 1937, Burns, 1941 suppl., 64-310; Baldwin, 1937 suppl., 15897-4.

<sup>259</sup> Acts 1937; Burns, 1941 suppl., 64-311; Baldwin, 1937 suppl., 15897-5.

<sup>260</sup> Acts 1937; Burns, 1941 suppl., 64-311, 64-314; Baldwin, 1937 suppl., 15897-5, 15897-6.



limitations as finally fixed in the manner stated in the two preceding paragraphs.<sup>261</sup>

If the county council determines that an emergency exists requiring expenditures for the current year not authorized by the budget as originally established, or as modified by the Indiana Tax Board, the council may make an additional appropriation and levy. The auditor then certifies the matter to the Indiana Tax Board, and its decision thereon is final and conclusive.<sup>262</sup>

Between the first Monday in July and the last day of December, the auditor makes out and delivers to the treasurer a roll of taxes known and designated as the "tax duplicate." This contains several columns, and shows the names of taxpayers in alphabetical order, lands and improvements, mortgage deductions, corporate stock, personal property, valuations, poll taxes, assessments of omitted property, land transfers since the last assessment, and all alterations in the assessment lists made by the board of review or the Indiana Tax Board. He numbers each original township, city, and town in regular progression, as the same shall stand entered on the duplicate, retaining the same number from year to year. On or before January 1 he delivers to the Auditor of State a complete abstract of all property listed in each township, city, and town, showing valuations, mortgage deductions, number of polls, the amount of each kind of tax, the aggregate thereof in the county, and the rate of each kind assessed. A copy of the abstract is delivered to the treasurer, and another copy is kept by the county auditor.<sup>263</sup>

Property taxes for State, county, township, city, and town purposes are payable to the county treasurer in two equal instalments on or before the first Monday in May and the first Monday in November, respectively, in the year following the year for which the property was assessed. If any instalment is not paid when it becomes due, such instalment becomes delinquent, and a penalty of 8 percent of such instalment is added. An additional penalty of 5 percent is added to any tax for each year the tax remains unpaid after the first Monday

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<sup>261</sup> Acts 1937; Burns, 1941 suppl., 64-315; Baldwin, 1537 suppl., 15897-9.

<sup>262</sup> Acts 1899, 1907, 1913, 1937; Burns, 1941 suppl., 26-521; Baldwin, 1937 suppl., 5385.

Acts 1919, 1920 (Spec. Sess.), 1921, 1927, 1935; Burns, 1941 suppl., 64-1331; Baldwin, 1935 suppl., 15735.

<sup>263</sup> Acts 1919; Burns 64-1403, 64-1408; Baldwin 15740, 15745.

in November of the year in which the delinquency accrued.<sup>264</sup>

A personal property tax receipt must be presented to any licensing authority to obtain an occupation license required by the State, a motor vehicle operator's or chauffeur's license, a motor vehicle license, or a certificate of title for a motor vehicle.<sup>265</sup>

It is the duty of the county treasurer to collect all such property taxes after they become delinquent. He may levy on personal property at any time after the tax becomes delinquent, or before delinquency if he has good reason to believe the taxpayer is about to leave the county without payment, and sell the same after 10 days' notice of the time and place of sale. Suit in the name of the treasurer may be brought by the prosecuting attorney to collect taxes. Real estate may be sold at a tax sale, on the second Monday in April, after advertisement but not until 15 months have elapsed since delinquency. The purchaser of real estate at a tax sale receives from the auditor a tax certificate which describes the realty, states the amount paid by the purchaser, and states when a tax deed (to be executed by the auditor) may be obtained by the holder of the certificate.<sup>266</sup>

The owner or occupant of any land sold for taxes, or any other person having an interest therein, may redeem the same at any time within 2 years after the sale and at any time

<sup>264</sup> Acts 1919; Burns 64-1502; Baldwin 15748. Acts 1932 (Spec. Sess.); Burns 64-1508; Baldwin 15751. Acts 1935; Burns, 1941 suppl., 64-1542, 64-1544; Baldwin, 1935 suppl., 15765-1, 15765-3.

<sup>265</sup> Acts 1931; Burns 42-103, 42-105; Baldwin 10500, 10503. Acts 1931, 1941; Burns, 1941 suppl., 42-102, 42-105; Baldwin, 1941 suppl., 10499, 10501.

<sup>266</sup> Acts 1932 (Spec. Sess.); Burns 64-1509, 64-1511; Baldwin 15752, 15754. Acts 1919, 1931; Burns 64-1518, 64-1701 to 64-1705, 64-2001, 64-2201, 64-2203 to 64-2211; Baldwin 15772, 15778 to 15782, 15794, 15806, 15808 to 15818. Acts 1919, 1931, 1937; Burns, 1941 suppl., 64-2202; Baldwin, 1937 suppl., 15807. Op. Atty. Gen. 1940, p. 40.

If a delinquent taxpayer has in the county personalty which is liable to pay his taxes, he may enjoin the sale of his realty for such delinquent taxes until such personalty is exhausted. *Bland v. Union Cent. Life Ins. Co.*, 209 Ind. 84, 198 N. E. 78 (1935); *Weaver v. Kauffman*, 57 Ind. App. 59, 106 N. E. 398 (1914).

"Taxes are not a lien upon personal property. They are the personal obligation of the taxpayer, and become a lien only when the property is levied upon. The lien created by the levy is like the lien created by a levy upon execution. It is junior and inferior to prior existing liens." Held that a purchaser of personalty at a tax sale took title subject to a chattel mortgage recorded before the seizure to satisfy the tax. *Voigt v. Ludlow Typograph Co.*, 213 Ind. 329, 12 N. E. (2d) 499 (1938).

thereafter before a tax deed is issued. Such deed may be issued by the auditor at any time between 2 and 4 years after the tax sale. The redeemer must pay to the treasurer the amount of the taxes and penalties for which the property was sold (as shown in the tax certificate), plus a penalty based on a percentage of such amount (10 percent if redeemed within 6 months after the sale, 15 percent if redeemed 6 months to 1 year after the sale, or 25 percent if redeemed more than 1 year after the sale), plus the cost of the tax sale, plus any subsequent taxes paid by the certificate holder, plus interest on such subsequent taxes at the rate of 6 percent per annum. No interest on such subsequent taxes can accrue later than 2½ years after the tax sale. The money so received by the treasurer is paid by him to the holder of the redeemed tax certificate.<sup>267</sup>

Ordinarily real estate cannot be sold at a tax sale for less than the amount of the taxes under which the sale is made, plus penalties, and the pro rata share of costs of sale; and such sale is made subject to all other taxes. Where real estate has been twice offered for sale at separate public tax sales and no sufficient bid as aforesaid has been made previous to the first Monday of the following December, the property must be bid in by the county auditor for a sum equal to the delinquent taxes and the costs thereon. The county immediately receives a deed therefor, but the original owner may redeem the property within one year after the date of sale.<sup>268</sup>

Semiannually lists of delinquent taxes due from officials and employees of local governmental units are submitted by the county treasurer to each disbursing officer of such units, who deducts 10 percent of said delinquents' salaries in excess of \$15 per week for payment to the county treasurer until such taxes are paid in full.<sup>269</sup>

#### EXCISE TAXES AND LICENSING

The tax on financial institutions is an excise tax<sup>270</sup>

<sup>267</sup> Acts 1919, 1931; Burns 64-2301, 64-2401, 64-2403; Baldwin 15819, 15832, 15811. Information obtained from E. P. Brennan, State Examiner, on January 22, 1940, by W. Davis Hamilton.

Infants, idiots, and insane persons may redeem their lands within 2 years after expiration of disability. Acts 1919; Burns 64-2302; Baldwin 15820.

<sup>268</sup> Acts 1919, ch. 59, secs. 222, 257. Acts 1932 (Spec. Sess.); Burns 64-1509; Baldwin 15752. Acts 1919, 1931, 1937, 1941; Burns, 1941 suppl., 64-2202, 64-2203, 64-2205; Baldwin. 1937 suppl., 15807; Baldwin, 1941 suppl., 15808, 15810. Op. Atty. Gen. 1938, p. 255; 1939, p. 211; 1940, p. 40.

<sup>269</sup> Acts 1935, 1941; Burns, 1941 suppl., 64-1505, 64-1506; Baldwin, 1941 suppl., 15767, 15768.

<sup>270</sup> Lutz v. Arnold, 208 Ind. 480, 193 N. E. 840 (1935).

(in lieu of all other taxes) on banks, trust companies, and building and loan associations. It is administered by the county auditor and treasurer under the supervision of the Indiana Tax Board.<sup>271</sup>

The inheritance tax is an excise tax administered by the county assessor and treasurer, under the supervision of the Indiana Tax Board, and by the circuit court. A schedule must be filed with the court within 12 months after the decedent's death. Notice is given to the interested parties, the estate is appraised, and the court determines the amount of tax due. The court appoints the county assessor to act as the appraiser in every estate; and he appraises all property at the fair market value, as of the date of the transfer.<sup>272</sup> The appraiser makes his report in duplicate, one copy to the court and one to the Indiana Tax Board.<sup>273</sup> The treasurer collects the tax and issues a receipt in duplicate, one copy of which is sent to the Indiana Tax Board; and no final accounting of an estate is made until such receipt is countersigned by that board.<sup>274</sup> The county treasurer must report quarterly to the Auditor of State all inheritance taxes received by him. All such collected taxes are transmitted by the county treasurer, through a warrant issued by the county auditor, to the Treasurer of State.<sup>275</sup> When directed by the court to do so, the prosecuting attorney sues to collect the tax.<sup>276</sup>

The intangible tax<sup>277</sup> is a stamp tax on notes, stocks, bonds, and other evidences of property interests or obligations for payment of money. This tax is administered by the county assessor<sup>278</sup> and treasurer, under the supervision of the Indiana

<sup>271</sup> Acts 1933; Burns 64-801 to 64-834; Baldwin 15582 to 15615. Op. Atty. Gen. 1939, p. 252; 1940, p. 59.

<sup>272</sup> Acts 1931, 1933; Burns 6-2408; Baldwin 15946. Acts 1931, 1933, 1937; Burns, 1941 suppl., 6-2407; Baldwin, 1937 suppl., 15945. Op. Atty. Gen. 1939, p. 326. *Thirty-ninth Annual Conference of Indiana Tax Board*, pp. 32-39.

<sup>273</sup> Acts 1931; Burns 6-2410; Baldwin 15948.

<sup>274</sup> Acts 1931; Burns 6-2413; Baldwin 15951.

<sup>275</sup> Acts 1931; Burns 6-2414; Baldwin 15952.

Refunds of inheritance taxes. Op. Atty. Gen. 1939, p. 88.

<sup>276</sup> Acts 1931; Burns 6-2415; Baldwin 15955.

<sup>277</sup> The intangible tax is an excise tax. *Lutz v. Arnold*, 208 Ind. 480, 193 N. E. 840 (1935).

<sup>278</sup> Acts 1933; Burns 64-917; Baldwin 15915. Acts 1933, 1935; Burns, 1941 suppl., 64-906; Baldwin, 1935 suppl., 15904. *Thirty-ninth Annual Conference of Indiana Tax Board*, pp. 39-53. Op. Atty. Gen. 1940, pp. 110, 151, 203.

Mortgage which does not create a personal liability is subject to intangible tax. Op. Atty. Gen. 1939, p. 222.



Tax Board and sold by the county treasurer.<sup>279</sup> The taxpayer is required to file with his tangible personal property schedule an affidavit showing that he has complied with the intangible tax law.<sup>280</sup> If the tax is not paid when due, it is entered on the tax duplicate of the county where the taxpayer resides or his property is located in the manner in which omitted property is assessed for property taxes, and becomes a lien upon all property of the taxpayer in the county.<sup>281</sup> Suit for collection may be brought by the prosecuting attorney or the Attorney General.<sup>282</sup>

The excise tax on dogs and dog kennels is administered by the township assessors and the county auditor. After making assessment of personal property for property taxes each township assessor makes inquiry concerning dogs and kennels, collects the excise tax thereon for the ensuing year, and issues licenses and receipts. The county auditor collects the tax and issues licenses and receipts if the township assessor fails to do so.<sup>283</sup> The money so collected constitutes a fund known as the "dog fund," and is used to pay for damage to or loss of livestock caused by dogs or rabies. Dog funds exceeding \$100, over and above all warrants drawn on the same, in any township on the first Monday in March are transferred on the following Monday to townships in which the dog fund is less than the warrants drawn thereon.<sup>284</sup>

The clerk of the circuit court issues licenses for

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<sup>279</sup> Acts 1933; Burns 64-924, 64-927; Baldwin 15922, 15925.

<sup>280</sup> Acts 1933; Burns 64-918; Baldwin 15916.

<sup>281</sup> Acts 1933, 1935; Burns, 1941 suppl., 64-915; Baldwin, 1935 suppl., 15913.

Actions on documents on which tax has not been paid. *First State Bank v. Montoney*, 106 Ind. App. 61, 17 N. E. (2d) 870 (1938); *Davis v. Bankers Trust Co.*, 106 Ind. App. 422, 20 N. E. (2d) 686 (1939).

<sup>282</sup> Acts 1933; Burns 64-921; Baldwin 15919.

<sup>283</sup> Acts 1937; Burns, 1941 suppl., 16-317; Baldwin, 1937 suppl., 3811-1.

<sup>284</sup> Acts 1937, 1941; Burns, 1941 suppl., 16-324 to 16-326; Baldwin, 1937 suppl., 3811-8, 3811-10; Baldwin, 1941 suppl., 3811-9.

Dog tax is for protection of property, not to provide revenue for public purposes. Excess funds in the county must be paid to the Auditor of State in accordance with the 1937 law, not to schools under the 1929 law. *Finerty v. State ex rel. School City of Gary*, 213 Ind. 470, 12 N. E. (2d) 941 (1938).



marriages,<sup>285</sup> physicians, surgeons,<sup>286</sup> midwives,<sup>287</sup> osteopaths,<sup>288</sup> chiropractors, drugless healers,<sup>289</sup> dentists,<sup>290</sup> optometrists,<sup>291</sup> nurses,<sup>292</sup> hunting, trapping, fishing, poultry dealers,<sup>294</sup> and junk dealers.<sup>295</sup> Formerly he issued liquor licenses,<sup>296</sup> brokers' licenses,<sup>297</sup> licenses for veterinarians,<sup>298</sup> stallions,<sup>299</sup> and petty money lenders,<sup>300</sup> and

<sup>285</sup> Rev. Stat. 1838, ch. 68, sec. 3. Rev. Stat. 1843, ch. 35, secs. 8, 9, 12. 1 Rev. Stat. 1852, Acts 1939; Burns, 1941 suppl., 44-201; Baldwin, 1939 suppl., 5622.

The judge of the circuit court may waive certain provisions of the law requiring laboratory tests and medical certificates. Acts 1939; Burns, 1941 suppl., 44-213; Baldwin, 1939 suppl., 5624-1.

Injunction to prevent illegal issuance of license. Sweigart v. State, 213 Ind. 157, 12 N. E. (2d) 134 (1938).

Common law marriage. Young v. General Baking Co., 104 Ind. App. 658, 12 N. E. (2d) 1016 (1938).

Ratification of void ceremonial marriage by living together after removal of disability of party. Eddington v. Eddington, 213 Ind. 347, 12 N. E. (2d) 758 (1938).

<sup>286</sup> Acts 1881, ch. 19, secs. 10, 11. Acts 1885 (Spec. Sess.), ch. 77, sec. 2 (repealed by Acts 1897, ch. 169, sec. 10). Acts 1897; Burns 63-1303; Baldwin 10705.

<sup>287</sup> Acts 1897; Burns 63-1309; Baldwin 10709.

<sup>288</sup> Acts 1901; Burns 63-1316; Baldwin 10716.

<sup>289</sup> Acts 1927; Burns 63-1312; Baldwin 10713.

<sup>290</sup> Acts 1899, ch. 211, secs. 5, 7-11. Acts 1913, 1931, 1935; Burns, 1941 suppl., 63-504; Baldwin, 1935 suppl., 5589. Acts 1913, 1931; Burns 63-506, 63-507; Baldwin 5591, 5592.

<sup>291</sup> Acts 1907; Burns 63-1009; Baldwin 13180. Acts 1907, 1935; Burns, 1941 suppl., 63-1010, 63-1011; Baldwin, 1935 suppl., 13181, 13182.

<sup>292</sup> Acts 1905, 1913, 1931; Burns 63-903; Baldwin 13036.

<sup>293</sup> Acts 1901, ch. 203, sec. 13. Acts 1907, ch. 216, sec. 9. Acts 1911, ch. 286, secs. 1, 2. Acts 1927, 1933; Burns 11-302, 11-310; Baldwin 8302, 8309. Acts 1937; Burns, 1941 suppl., 11-1403; Baldwin, 1937 suppl., 8229-3.

The cited sections of the acts of 1901, 1911, 1927, and 1933 were repealed by Acts 1937, ch. 21, sec. 161.

<sup>294</sup> Acts 1917, 1929, 1932 (Spec. Sess.); Burns 42-802; Baldwin 10486.

<sup>295</sup> Acts 1905; Burns 42-703; Baldwin 10462.

<sup>296</sup> This duty existed until 1841 and from 1917 until 1933. Acts 1816-17, ch. 15, sec. 6. Acts 1817-18 (general), ch. 47, secs. 1, 2. Acts 1820-21, ch. 36, secs. 1, 2. Rev. L. 1824, ch. 15, sec. 5; ch. 16, sec. 6. Rev. L. 1831, ch. 20, sec. 6. Rev. Stat. 1838, ch. 21, sec. 6; ch. 105, secs. 1-10. Acts 1841-41 (general), ch. 2, secs. 8, 54. Acts 1917, ch. 4, secs. 6, 7, 12. Acts 1925, ch. 48, secs. 10, 11. Acts 1933, ch. 79, sec. 1.

<sup>297</sup> Acts 1840 41 (general), ch. 5, sec. 18.

<sup>298</sup> Acts 1901, ch. 189, sec. 7 (repealed by Acts 1905, ch. 98, sec. 17).

<sup>299</sup> Acts 1889, ch. 116, sec. 1 (superseded by Acts 1913, ch. 28, creating the stallion enrollment board).

<sup>300</sup> Acts 1913, ch. 167, secs. 1-4 (repealed by Acts 1917, ch. 125, sec. 6).

kept a register of certificates of agents of foreign insurance companies.<sup>301</sup>

The judges of the circuit court have authority to issue licenses to carry pistols. When the judge grants an application for such license, he usually orders the clerk of the circuit court to issue the license; and in issuing such licenses the clerk acts for the judge.<sup>302</sup> The sheriff issues licenses for the retail sale of pistols.<sup>303</sup>

The county auditor issues licenses for peddlers, shows, theaters,<sup>304</sup> transient merchants,<sup>305</sup> public warehouses,<sup>306</sup> and ferries.<sup>307</sup> He issued liquor licenses before 1917.<sup>308</sup> The board of commissioners authorizes the issuance of ferry

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<sup>301</sup> Acts 1901, ch. 180, sec. 1. Acts 1903, ch. 66, sec. 1. Acts 1865, 1877, 1899; Burns 39-1701; Baldwin 9567. All of these laws were repealed by Acts 1935, ch. 162, sec. 276.

<sup>302</sup> Acts 1913, ch. 167, sec. 1 (repealed by Acts 1917, ch. 125, sec. 6). Acts 1925, 1929; Burns 10-4721, 10-4723, 10-4725; Baldwin 2557, 2559, 2561 (all repealed by Acts 1935, ch. 63, sec. 21). Acts 1935, 1937; Burns, 1941 suppl., 10-4738; Baldwin, 1937 suppl., 2569-5. Op. Atty. Gen. 1937, p. 242.

<sup>303</sup> Acts 1935, 1937; Burns, 1941 suppl., 10-4742; Baldwin, 1937 suppl., 2569-9.

Forms for these licenses are prescribed by the Superintendent of the State Police.

*Ibid.*

<sup>304</sup> Acts 1917, 1937; Burns, 1941 suppl., 42-201; Baldwin, 1937 suppl., 10443. 1 Rev. Stat. 1852; Burns 42-204; Baldwin 10447. Acts 1901; Burns 42-502, 42-503; Baldwin 10470-1, 10471. Acts 1895; Burns 42-510; Baldwin 10478.

<sup>305</sup> Acts 1901; Burns 42-402; Baldwin 10491.

The auditor keeps a record of such licenses in a book provided for that purpose, and it is open for public inspection. *Ibid.*

<sup>306</sup> Acts 1875, 1879 (Spec. Sess.); Burns 67-201; Baldwin 16206.

<sup>307</sup> Rev. Stat. 1838, ch. 41, secs. 1-4, 8, 11. Acts 1840-41 (general), ch. 2, secs. 8, 54. Rev. Stat. 1843, ch. 7, secs. 5, 16, 17, 53; ch. 17, secs. 1-23. 1 Rev. Stat. 1852; Burns 26-611, 26-621, 49-3004; Baldwin 5226, 5236, 5418. Acts 1881 (Spec. Sess.), 1911; Burns 36-2501 to 36-2504; Baldwin 7676 to 7679. 1 Rev. Stat. 1852, Acts 1855; Burns 36-2601 to 36-2607; Baldwin 7691 to 7697. Acts 1881 (Spec. Sess.), 1897; Burns 36-2608 to 36-2618; Baldwin 7698 to 7708. Acts 1917, 1937; Burns, 1941 suppl., 42-201; Baldwin, 1937 suppl., 10443.

<sup>308</sup> Rev. Stat. 1838, ch. 105, secs. 1-10. Acts 1840-41 (general), ch. 2, secs. 8, 54. Rev. Stat. 1843, ch. 59, sec. 15. 1 Rev. Stat. 1852, ch. 8, sec. 3; ch. 20, secs. 7, 14; ch. 92, sec. 1. Acts 1853, ch. 66, secs. 1-4. Acts 1835, ch. 105, secs. 4-8; ch. 106, secs. 1, 2. Acts 1858 (Spec. Sess.), ch. 15. Acts 1859, ch. 130, secs. 1-7. Acts 1873, ch. 59, secs. 1-5, 20. Acts 1875 (Spec. Sess.), ch. 13, secs. 1-9, 21. Acts 1895, ch. 127, secs. 1, 8-10. Acts 1897, ch. 167, secs. 1-3. Acts 1905, ch. 6, sec. 1. Acts 1911, ch. 119, secs. 3-8, 16, 28; ch. 148, secs. 1, 2, 7-9, 11. Acts 1915, ch. 10, sec. 1. Acts 1917, ch. 4, secs. 4, 40.

licenses,<sup>309</sup> and before 1917 authorized the issuance of liquor licenses.<sup>310</sup>

# FEES

The law provides for the charging of fees by various county officials. Salaried officials cannot disburse their fees for office expense, or retain the fees or interest thereon as compensation, unless a statute enacted since 1932 specifically authorizes them to do so. Such fees must be paid into the county treasury. An officer cannot draw any salary while illegally withholding fees.<sup>311</sup>

County officials may charge and collect only such fees as are allowed by statute.<sup>312</sup> If an officer collects illegal fees, the county cannot recover them from him, since they belong to the person paying the same.<sup>313</sup> If the officer unlawfully refuses to pay over fees collected by him, an action lies on his bond;<sup>314</sup> and if he pays over fees which he is entitled to retain, he may sue to recover the same.<sup>315</sup>

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<sup>309</sup> Acts 1807, ch. 33 (misnumbered 31), secs. 1, 6; ch. 51, sec. 14. Acts 1816-17, ch. 29, sec. 2. Rev. Stat. 1838, ch. 41, secs. 1-4, 8, 11. Rev. Stat. 1843, ch. 17, secs. 1-23. Acts 1881 (Spec. Sess.), 1911; Burns 36-2501 to 36-2504; Baldwin 7676 to 7679. 1 Rev. Stat. 1852, Acts 1855; Burns 36-2601 to 36-2607; Baldwin 7691 to 7697. Acts 1881 (Spec. Sess.), 1897; Burns 36-2608 to 36-2618; Baldwin 7698 to 7708. Acts 1917, 1937; Burns, 1941 suppl., 42-201; Baldwin, 1937 suppl., 10443.

<sup>310</sup> Acts 1807, ch. 17, secs. 1, 4. Acts 1813, ch. 3, sec. 2. Acts 1817-18 (general), ch. 47, secs. 1, 2. Rev. Stat. 1838, ch. 105, secs. 1-10. Rev. Stat. 1843, ch. 59, sec. 15. 1 Rev. Stat. 1852, ch. 92, sec. 1. Acts 1853, ch. 66, sec. 8. Acts 1855, ch. 105, secs. 4-8; ch. 106, sec. 4. Acts 1858 (Spec. Sess.), ch. 15. Acts 1859, ch. 130, secs. 1-7. Acts 1873, ch. 59, secs. 1-5, 20. Acts 1875 (Spec. Sess.), ch. 13, secs. 1-9, 21. Acts 1895, ch. 127, secs. 1, 8-10. Acts 1897, ch. 167, secs. 1-3. Acts 1905, ch. 6, sec. 1. Acts 1911, ch. 119, secs. 3-8, 16, 23, ch. 148, secs. 1, 2, 7-9, 11. Acts 1915, ch. 10, sec. 1. Acts 1917, ch. 4, secs. 4, 40.

<sup>311</sup> Acts 1933; Burns 49-1001, 49-1005; Baldwin 7531, 7535. Acts 1895; Burns 49-1410; Baldwin 7585. *Keifer v. Summers*, 137 Ind. 106, 35 N. E. 1103 (1894); *Applegate v. State ex rel. Pett john*, 205 Ind. 122, 185 N. E. 911 (1933); *Board of County Comrs. v. Lewis*, 81 Ind. App. 601, 144 N. E. 623 (1924).

<sup>312</sup> *Noble v. Board of County Comrs.*, 101 Ind. 127 (1885); *Legler v. Paine*, 147 Ind. 181, 45 N. E. 604 (1896).

<sup>313</sup> *State ex rel. Board of County Comrs. v. Williams*, 39 Ind. App. 376, 77 N. E. 1137 (1906).

<sup>314</sup> Acts 1883; Burns 49-142; Baldwin 13094. *Workman v. State ex rel. Board of County Comrs.*, 165 Ind. 42, 73 N. E. 917 (1905).

<sup>315</sup> *Board of County Comrs. v. Crone*, 36 Ind. App. 283, 75 N. E. 826 (1905).

All officers are required to keep complete records of all fees received from any source whatever. Such records are subject to public inspection at any time, and must be examined by the board of commissioners at their meetings.<sup>316</sup>

The clerk of the circuit court, treasurer, sheriff, and recorder must make reports of fees to the auditor quarterly and at the expiration of their terms of office. The treasurer also makes a monthly report of fees to the auditor.<sup>317</sup> The clerk of the circuit court annually delivers to the auditor a list of all fines and jury fees collected during the preceding year, and also a list of all fees in his hands which have remained unclaimed for 2 years. The auditor enters such lists in the order book (commonly called the "Commissioners' Record") of the board of commissioners and issues a quietus for the items of such lists which have been paid over to the county treasurer.<sup>318</sup>

#### FUNDS RECEIVED FROM THE STATE

The 92 counties in Indiana quarterly receive \$3,050,000 (if available) from the State motor vehicle highway account (composed of excise taxes on motor vehicle fuel, motor vehicles, operators, and chauffeurs), distributed among the counties on the following basis: 5 percent divided equally; 52½ percent divided according to the ratio of miles of county roads in the county to total mileage of county roads in the State; and 42½ percent divided according to the ratio of motor vehicle registrations in each county to the total motor vehicle registrations of the State. Such funds are used by the county for construction and maintenance of county roads and bridges thereon.<sup>319</sup>

The counties receive from the State a portion of the license fee on liquor dealers. Distribution of such portion among the counties is based on the amount paid in for licenses with respect to dealers' premises located outside cities and towns in each county, as compared with the total for such areas in all counties.<sup>320</sup>

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<sup>316</sup> Acts 1895; Burns 49-1401, 49-1409; Baldwin 7576, 7584. Acts 1879 (Spec. Sess.); Burns 49-2723; Baldwin 1443. Acts 1909; Burns 60-213; Baldwin 13864.

<sup>317</sup> Acts 1895, 1903, 1913; Burns 49-1402; Baldwin 7577. 2 Rev. Stat. 1852, Acts 1891; Burns 49-2710; Baldwin 1437. Acts 1919; Burns 64-2101; Baldwin 15802.

<sup>318</sup> Acts 1841-42 (general), ch. 45, sec. 3. 2 Rev. Stat. 1852, Acts 1891; Burns 49-2710; Baldwin 1437.

<sup>319</sup> Acts 1941; Burns, 1941 suppl., 36-2817; Baldwin, 1941 suppl., 8695-17.

<sup>320</sup> Acts 1935, 1937, 1939; Burns, 1941 suppl., 12-505, 12-811; Baldwin, 1939 suppl., 3764-7, 3764-40(f).



Each county receives from the State (including Federal funds), as reimbursement, about 81 percent of the money spent by the county for welfare assistance.<sup>321</sup>

The counties receive a portion of the intangible tax. Distribution of such portion among the counties is based on the assessed valuation of the real property in each county, as compared to the total in all counties. One-fourth of the amount received by the county goes into the general fund of the county; and the remainder goes to the school funds of the township, city, and town taxing units within the county, on a basis of valuation of the real property in each unit.<sup>322</sup> School funds are discussed hereinafter under the heading "Education."

#### CLAIMS AND ALLOWANCES

Claims against the county, duly itemized and verified, in writing on forms furnished by the board of commissioners, may be filed with the auditor, who places them on the claim docket and thereafter presents them to the board for decision. At a regular or special session of the board of commissioners, beginning at least 5 days after the docketing of the claim and 3 days after publication of notice by the auditor, the commissioners must examine the merits of the claim and may, in their discretion, allow it, in whole or in part, as they find it to be just and owing.<sup>323</sup> The board cannot allow a claim that it previously disallowed.<sup>324</sup>

A claim for services can exist only by contract or by a statute providing for the services and directing compensation.<sup>325</sup> A claim for materials and supplies will not be allowed unless accompanied by a certificate of the auditor showing that the goods mentioned in the claim correspond in quality and prices with the contract.<sup>326</sup> A claim on a

<sup>321</sup> Acts 1936 (Spec. Sess.); Burns, 1941 suppl., 52-1405, 52-1412; Baldwin, 1937 suppl. 14078-117, 14078-124. Information obtained from Frank G. Thompson, Auditor of State, on March 31, 1939, by W. Davis Hamilton.

<sup>322</sup> Acts 1933; Burns 64-922; Baldwin 15920.

<sup>323</sup> Acts 1899; Burns 26-538, 26-804; Baldwin 5403, 5255. Acts 1879 (Spec. Sess.); Burns 26-805, 26-807; Baldwin 5254, 5256. Acts 1897; Burns 26-806, 26-809; Baldwin 5260, 5257. Acts 1931; Burns 26-816 to 26-819; Baldwin 5268 to 5271.

<sup>324</sup> Myers v. Gibson, 152 Ind. 500, 53 N. E. 646 (1899).

<sup>325</sup> Board of County Comrs. v. Greensburg Times, 215 Ind. 471, 19 N. E. (2d) 459, 20 N. E. (2d) 647 (1939).

<sup>326</sup> Acts 1899; Burns 26-538; Baldwin 5403.



contract for work to be conducted under the supervision of the county surveyor, or any architect, engineer, superintendent, or inspector appointed by the board of commissioners must be accompanied by a certificate of the surveyor or such agent, showing that the work therein mentioned was performed according to contract and that the amount claimed is due and owing by the terms of the contract.<sup>327</sup> A claim based on a judgment or order of a court must be accompanied by a certified copy of such judgment or order.<sup>328</sup>

An allowance not called for within 5 years may be cancelled.<sup>329</sup> Preference in payment is given to claims for money advanced by any county officer for the use of the county pursuant to provisions of law or of any order of the board.<sup>330</sup> However, no allowance can be made by the board of commissioners to one of its members for articles furnished by him to the county under a contract or otherwise.<sup>331</sup>

Any person feeling aggrieved by any decision of the board on any claim may appeal to the circuit court. In case of disallowance in whole or in part, the claimant may appeal as aforesaid or bring an independent suit against the board. The claimant must pay the costs of the appeal if he does not recover more on the appeal than was allowed by the board.<sup>332</sup> No complaint other than the claim (including certificates and exhibits, if any) presented to the board is required on appeal.<sup>333</sup> If the board allows only a part of the claim, and the claimant accepts payment of the amount allowed, he cannot bring suit for the remainder.<sup>334</sup>

In accordance with appropriations by the county council,<sup>335</sup> the judge of the circuit court may make allowances against the county for expense of administration of justice.<sup>336</sup>

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<sup>327</sup> Acts 1899; Burns 26-539; Baldwin 5404.

<sup>328</sup> Acts 1911; Burns 26-814; Baldwin 5265.

<sup>329</sup> Acts 1879 (Spec. Sess.); Burns 26-815; Baldwin 5273.

<sup>330</sup> 1 Rev. Stat. 1852; Burns 26-802; Baldwin 5252.

<sup>331</sup> Waymire v. Powell, 105 Ind. 328, 4 N. E. 886 (1886).

<sup>332</sup> Acts 1879 (Spec. Sess.), 1885; Burns 26-320; Baldwin 5275.

<sup>333</sup> Board of County Comrs. v. Wertz, 112 Ind. 268, 13 N. E. 874 (1887).

<sup>334</sup> Western Constr. v. Board of County Comrs., 178 Ind. 684, 98 N. E. 347 (1912).

<sup>335</sup> Acts 1899; Burns 26-515, 26-527; Baldwin 5379, 5391.

<sup>336</sup> Acts 1879 (Spec. Sess.); Burns 49-1432, 49-1434; Baldwin 13127, 13128.

Change of venue from county. Acts 1905; Burns 9-1312 to 9-1315; Baldwin 2233 to 2236.

Blank books and stationery. 2 Rev. Stat. 1852; Burns 49-2709; Baldwin 143.

Such allowances include compensation of witnesses,<sup>337</sup> jurors,<sup>338</sup> master commissioners,<sup>339</sup> sheriff,<sup>340</sup> bailiffs,<sup>341</sup> court reporter,<sup>342</sup> court page,<sup>343</sup> and attorneys appointed to represent poor persons.<sup>344</sup>

Within 10 days after adjournment of the session of the board of commissioners or circuit court, at which allowances against the county are made, the auditor publishes notice showing all allowances made by the board or court. A warrant on an allowance by a court cannot be issued until 3 days after such publication.<sup>345</sup>

The county director of public welfare may make allowances for welfare assistance; and the clerk of the circuit court makes allowances for clothing for insane paupers in institutions.<sup>346</sup>

#### CUSTODY AND DISBURSEMENT OF FUNDS

The treasurer receives all money coming to the county, and disburses it on proper warrants (formerly called orders) issued by the auditor and countersigned by the treasurer.<sup>347</sup>

The board of finance has supervision of all public funds of the county and of the safekeeping and deposit thereof.<sup>348</sup> The board designates depositories for public funds, after

<sup>337</sup> 1 Rev. Stat. 1852; Burns 9-2408; Baldwin 1306.

<sup>338</sup> Acts 1881 (Spec. Sess.), 1913, 1927, 1933; Burns 4-3319; Baldwin 1277.

<sup>339</sup> Acts 1881 (Spec. Sess.), 1903; Burns 4-3407; Baldwin 1286.

<sup>340</sup> Acts 1885, 1905, 1915, 1919; Burns 49-1311; Baldwin 7570.

Change of venue from county. Acts 1905; Burns 9-1315; Baldwin 2236.

<sup>341</sup> Acts 1921, 1935; Burns, 1941 suppl., 4-3107; Baldwin, 1935 suppl., 1256. Acts 1895, 1905, 1915, 1919; Burns 49-1311; Baldwin 7570. 2 Rev. Stat. 1852; Burns 49-2804; Baldwin 5496. Op. Atty. Gen. 1939, p. 312.

<sup>342</sup> Acts 1921, 1939; Burns, 1941 suppl., 4-3507; Baldwin, 1939 suppl., 1288-1. Acts 1893; Burns 4-3511; Baldwin 1300.

<sup>343</sup> Op. Atty. Gen. 1939, p. 312.

<sup>344</sup> Acts 1881 (Spec. Sess.); Burns 2-211, 2-212; Baldwin 26, 27. Acts 1905; Burns 9-1314; Baldwin 2275. Op. Atty. Gen. 1939, p. 351.

<sup>345</sup> Acts 1899; Burns 26-816; Baldwin 5268. Acts 1931; Burns 26-817; Baldwin 5269.

<sup>346</sup> Acts 1927, 1933; Burns 22-1215, 22-1216; Baldwin 4307, 4308. Acts 1936 (Spec. Sess.); Burns, 1941 suppl., 52-1124; Baldwin 1937 suppl., 14078-25. *Morris v. State ex rel. Brown*, 96 Ind. 597 (1884).

<sup>347</sup> Acts 1899, 1935; Burns, 1941 suppl., 26-522; Baldwin, 1935 suppl., 5386. 1 Rev. Stat. 1852; Burns 49-3103; Baldwin 5550. Acts 1937; Burns, 1941 suppl., 61-627; Baldwin, 1937 suppl., 13844-48.

<sup>348</sup> Acts 1937; Burns, 1941 suppl., 61-629; Baldwin, 1937 suppl., 13844-50.

inviting and receiving proposals from banks and trust companies. The commission of a depository may be revoked by the board at any time.<sup>349</sup> The resignation of a depository becomes effective 30 days after notice thereof to the board.<sup>350</sup> Monthly statements are furnished by the depository to the board on or before the fifth day of each month, and are preserved in the office of the board.<sup>351</sup> All public funds paid into the county treasury must be deposited by the treasurer daily, in the name of the county, in one or more of such designated depositories. On or before the fifth day of each month, the treasurer must file with the secretary of the board a statement of the balance of funds at the end of the previous month, consistent with the statement furnished by the depository.<sup>352</sup> The treasurer deposits quarterly with the auditor all redeemed warrants.<sup>353</sup>

When the auditor draws a warrant, he charges it against the appropriation and particular fund from which it was drawn. Apportionment is made if more than one fund or appropriation is involved.<sup>354</sup> Records of the warrants are kept in the manner prescribed by the State Board of Accounts. Formerly the number, date, amount, name of payee, and purpose of the warrant were entered in a book as prescribed by statute.<sup>355</sup> The auditor examines and settles all accounts and demands chargeable against the county which no law requires to be settled and allowed by some other tribunal or person.<sup>356</sup> Before issuing a warrant or quietus, the auditor must examine the account to ascertain whether it is correct and in proper form; and for this purpose may require the furnishing of information, vouchers, and exhibits sufficient to satisfy himself.<sup>357</sup>

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<sup>349</sup> Acts 1937; Burns, 1941 suppl., 61-634 to 61-636; Baldwin, 1937 suppl., 13844-55 to 13844-57.

<sup>350</sup> Acts 1937; Burns, 1941 suppl., 61-640; Baldwin, 1937 suppl., 13844-61.

<sup>351</sup> Acts 1937; Burns, 1941 suppl., 61-638; Baldwin, 1937 suppl., 13844-59.

<sup>352</sup> Acts 1937; Burns, 1941 suppl., 61-624; Baldwin, 1937 suppl., 13844-45.

Defunct depositories. State ex rel. Jackson v. Middleton, 215 Ind. 219 19 N. E. (2d) 470 (1939). Op Atty. Gen. 1929, p. 247.

<sup>353</sup> 1 Rev. Stat. 1852; Burns 49-3114; Baldwin 5561. Information obtained from E. P. Brennan, State Examiner, on May 18, 1939, by W. Davis Hamilton.

<sup>354</sup> Acts 1899; Burns 26-544; Baldwin 5409.

<sup>355</sup> 1 Rev. Stat. 1852; Burns 49-3005; Baldwin 5419. Acts 1909; Burns 60-202; Baldwin 13855. Information obtained from E. P. Brennan, State Examiner, on August 15, 1939, by W. Davis Hamilton.

<sup>356</sup> 1 Rev. Stat. 1852; Burns 49-3005; Baldwin 5419.

<sup>357</sup> Acts 1909; Burns 60-215; Baldwin 13866.

On claims (including claims on judgments) allowed by the board of commissioners, and on allowances made by courts for the cost of administration of justice, and on allowances by the clerk of the circuit court for clothing of insane paupers in institutions, and on allowances by the county director of public welfare for welfare assistance, the auditor issues his warrants. But warrants may be issued for expenses of insanity inquests, for management of the school funds, for clothing the insane, for salaries, to pay judgments, and for other liabilities for specific amounts fixed by law, when no allowance has been made as aforesaid.<sup>358</sup> Warrants not called for within 5 years after the allowance of the claims on which they were drawn may be canceled by the board of commissioners, if not called for after publication of notice.<sup>359</sup>

A warrant drawn by the auditor on the treasurer must be accompanied by a carbon copy thereof, except in the case of State and township funds. If funds are available to pay the warrant, the treasurer, on presentation to him, detaches and retains the carbon copy, and countersigns the original and stamps thereon the name of the depository by which it is payable. The original warrant is delivered to the payee, and the amount thereof is paid to the payee by the depository on presentation and surrender of the warrant. For the convenience of the payee, the treasurer may pay cash to the holder, on taking an assignment of the warrant, in which event such warrant will be deposited by the treasurer in the depository in lieu of cash.<sup>360</sup> If no funds are available to pay the warrant, the treasurer endorses thereon the words "not paid for want of funds" and the date of such presentment; and thereafter the warrant draws legal interest. Interest ceases when funds become available for payment and the treasurer or auditor publishes a call for redemption.<sup>361</sup> Outstanding warrants are redeemed by the treasurer according to priority of time

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<sup>358</sup> Acts 1927, 1933; Burns 22-1215, 22-1216; Baldwin 4307, 4308. Acts 1897; Burns 26-809; Baldwin 5257. Acts 1911; Burns 26-813, 26-814; Baldwin 5264, 5265. 1 Rev. Stat. 1852; Burns 49-3005; Baldwin 5419. Acts 1936 (Spec. Sess.); Burns, 1941 suppl., 52-1124; Baldwin, 1937 suppl., 14073-25. Acts 1937; Burns, 1941 suppl., 61-627; Baldwin, 1937 suppl., 13844-48. Blue v. State ex rel. Powell, 210 Ind. 486, 1 N. E. (2d) 122 (1936).

<sup>359</sup> Acts 1279 (Spec. Sess.); Burns 26-815; Baldwin 5273.

<sup>360</sup> 1 Rev. Stat. 1852; Burns 49-3111; Baldwin 5558. Acts 1937; Burns, 1941 suppl., 61-627; Baldwin, 1937 suppl., 13844-48.

<sup>361</sup> Acts 1889; Burns 49-3007, 49-3008; Baldwin 5420, 5421. 1 Rev. Stat. 1852; Burns 49-3111; Baldwin 5558.



of presentment. Such warrants must be received in payment of county taxes without regard to such priority.<sup>362</sup> When the treasurer redeems a warrant on which interest is due, he makes a notation thereon, and also in his account, showing the amount of interest paid.<sup>363</sup>

Every public officer who receives or distributes public funds must keep a cashbook wherein are entered daily, by item, all receipts of public funds. The book must be balanced daily, show funds on hand at the close of each day, and be kept open to public inspection.<sup>364</sup> The treasurer keeps records of all receipts and disbursements in general account, and also in separate accounts for the separate appropriations and distinct funds. Current taxes are not entered on his account with the county until after his annual statement.<sup>365</sup> At the end of March, June, September, and December, the treasurer makes out a report showing the amount of money in the county treasury and each distinct fund thereof. The report is examined by the board of commissioners at its next regular session.<sup>366</sup>

The treasurer gives a receipt for all money paid to him, which receipt (except for taxes) must be deposited by the payer with the auditor, who gives a quietus for the same.<sup>367</sup>

The board of commissioners, at its first regular session each year, makes out a statement of the receipts and expenditures for the previous calendar year, and causes it to be published and posted.<sup>368</sup> The treasurer makes complete settlements with the board of commissioners at its January session each year.<sup>369</sup> Settlements by the board of commissioners

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<sup>362</sup> 1 Rev. Stat. 1852; Burns 49-3113; Baldwin 5560.

<sup>363</sup> 1 Rev. Stat. 1852; Burns 49-3112; Baldwin 5559.

<sup>364</sup> Acts 1937; Burns, 1941 suppl., 61-623; Baldwin, 1937 suppl., 13844-44.

<sup>365</sup> 1 Rev. Stat. 1852; Burns 49-3109; Baldwin 5534.

<sup>366</sup> Acts 1895, 1913; Burns 49-1403; Baldwin 7578.

<sup>367</sup> 2 Rev. Stat. 1852, Acts 1891; Burns 49-2710; Baldwin 1437. 1 Rev. Stat. 1852; Burns 49-3104; Baldwin 5551.

<sup>368</sup> Acts 1899; Burns 26-546; Baldwin 5411.

<sup>369</sup> Acts 1899; Burns 26-531; Baldwin 5386.

Formerly the settlement was made in June. 1 Rev. Stat. 1852; Burns 49-3116; Baldwin 5563.

The State Board of Accounts now requires that settlements be recorded in the monthly balance record of the auditor and treasurer. Information obtained from E. P. Brennan, State Examiner, on May 18, 1939, by W. Davis Hamilton.

Formerly the settlements were recorded in the order book (commonly called the "Commissioners' Record") of the board of commissioners. Acts 1899; Burns 26-531; Baldwin 5395.



are not binding on the county where the officer has failed to account for any money received by virtue of his office or failed to perform any duty required of him by law.<sup>370</sup>

All taxes collected by the treasurer must be deposited in the depository as one fund, except when otherwise provided by law. Semiannually the treasurer settles with the State and the municipal corporations within the county for taxes collected for them. Before such settlements, he advances not exceeding 80 percent when request by the proper officer is made to the auditor and a warrant is drawn by him.<sup>371</sup>

From time to time without notice, the books and accounts of county offices are audited by the State Examiner. Before 1909 the judge of the circuit court examined the office of the clerk of the circuit court and reported thereon to the board of commissioners; and the board of commissioners examined other county offices.<sup>372</sup>

#### PUBLIC DEBT

The Constitution of 1851 provides that the total amount of the county debt shall not exceed 2 percent of the value of the taxable property therein,<sup>373</sup> and a statute provides that such debt shall not exceed 2 percent of the taxable property less the total of all mortgage exemptions.<sup>374</sup>

The borrowing of money for the county must be authorized by ordinance of the county council.<sup>375</sup> The notes, bonds, or other evidence of indebtedness are executed by the county commissioners and attested by the auditor.<sup>376</sup> The obligations

<sup>370</sup> Acts 1879 (Spec. Sess.); Burns 26-637; Baldwin 5341.

<sup>371</sup> Acts 1937; Burns, 1941 suppl., 61-626; Baldwin, 1937 suppl., 13844-47.

<sup>372</sup> 1 Rev. Stat. 1852, Acts 1935; Burns, 1941 suppl., 26-620; Baldwin, 1935 suppl., 5236. Acts 1897; Burns 26-636; Baldwin 5237. 2 Rev. Stat. 1852; Burns 49-2720; Baldwin 1439. 1 Rev. Stat. 1852; Burns 49-3110; Baldwin 5555. Acts 1909, 1915; Burns 60-201, 60-211; Baldwin 13854, 13862. Op. Atty. Gen. 1939, p. 184. Information obtained from E. P. Brennan, State Examiner, on May 18, 1939, by W. Davis Hamilton.

<sup>373</sup> Const. 1851, art. 13, sec. 1. Exception is made in case of war, foreign invasion, or other public calamity. *Ibid.*

Bonds for construction of an interstate bridge, payable only from proceeds of bridge tolls, held not a debt within the meaning of this constitutional provision. Same ruling as to costs of highway maintenance. *Bennett v. Spencer County Bridge Commission*, 213 Ind. 520, 13 N. E. (2d) 547 (1938).

<sup>374</sup> Acts 1899, 1921, 1929; Burns 26-532; Baldwin 5396.

<sup>375</sup> *Ibid.*

<sup>376</sup> Acts 1899, 1921; Burns 26-540; Baldwin 5405.

may bear interest at a rate not exceeding 6 percent per annum. If the interest rate exceeds 5 percent the issuance must be approved by the Indiana Tax Board.<sup>377</sup> The council may provide for maturities at any time not exceeding 52 years from issuance.<sup>378</sup>

The bonds are issued after publication of notice, and must be sold for an amount not less than par value and accrued interest. If the amount of the bond issue is to exceed \$5,000, and if 10 taxpayers file objections with the auditor the objections will be certified to the Indiana Tax Board for hearing and disposition.<sup>379</sup>

Temporary loans, evidenced by tax anticipation notes or warrants, may be authorized to meet current running expenses to an amount not exceeding the revenue for the current year, and only as an anticipation of such revenue. It is the duty of the county council each year to levy an annual tax to pay all such temporary loans.<sup>380</sup>

The county council must make a levy of not less than one-tenth of 1 percent on the taxable property of the county each year, for the purpose of retiring bonds previously issued; and the taxes collected therefrom must be invested in those bonds or other county securities, and shall constitute a sinking fund for the ultimate liquidation of such debt.<sup>381</sup> The council must also levy each year a tax sufficient to pay interest for the year on bonds previously issued. If more taxes are collected under this levy than are needed to pay interest, such excess goes into the sinking fund to pay the principal.<sup>382</sup>

### ELECTIONS

In Indiana there are three types of elections: Primary, special, and general. Primary elections are for the purpose of nominating party candidates for all offices (other than

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<sup>377</sup> Acts 1899, 1921, 1929; Burns 26-532; Baldwin 5396. Acts 1919, 1920 (Spec. Sess.), 1921, 1923; Burns 64-1332; Baldwin 15736.

<sup>378</sup> Acts 1899, 1921, 1929; Burns 26-532, 61-401; Baldwin 5396, 13896.

<sup>379</sup> Acts 1899, 1921; Burns 26-540; Baldwin 5405. Acts 1919, 1920 (Spec. Sess.), 1921, 1923; Burns 64-1332; Baldwin 15736.

<sup>380</sup> Acts 1899, 1921, 1929; Burns 26-532; Baldwin 5396. Acts 1933; Burns 26-1022; Baldwin 5397.

<sup>381</sup> 1 Rev. Stat. 1852, Acts 1859; Burns 26-1006; Baldwin 5247. Acts 1899; Burns 26-515; Baldwin 5379.

<sup>382</sup> 1 Rev. Stat. 1852; Burns 26-1007; Baldwin 5248.

those to be voted on by the entire electorate of the State) and electing precinct committeemen and delegates to State conventions of political parties. The primary election is mandatory for each political party in the State casting for its candidate for Secretary of State 10 percent or more of the aggregate vote cast for all candidates for Secretary of State in the last general election.<sup>383</sup> All election days are legal holidays in the district or city where the election is held.<sup>384</sup> Special elections are held to fill vacancies in the Indiana General Assembly, vacancies in the office of Representative in Congress, and vacancies in offices required to be filled by special election. They are also held to fill all offices (except city and township) in case of a tie vote. They are ordered by the Governor, announced by the sheriff, and conducted in the manner in which general elections are conducted.<sup>385</sup> The general election, held biennially, is for the purpose of filling existing vacancies in office and filling all offices the terms of which will expire before the next general election thereafter.<sup>386</sup>

Primary elections are held on the first Tuesday after the first Monday in May preceding the general elections.<sup>387</sup> They are held under the supervision of the board of primary election commissioners, consisting of the clerk of the circuit court and two persons (of opposite political parties nominated by their respective county chairmen) appointed by him. This board prepares and distributes ballots for the primary elections.<sup>388</sup> It serves as the county board of election commissioners at the next general election<sup>389</sup> and as a canvassing board for all elections.<sup>390</sup>

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<sup>383</sup> Acts 1915; Burns 29-501; Baldwin 7187.

<sup>384</sup> Acts 1889; Burns 29-1613; Baldwin 7171.

<sup>385</sup> Acts 1905; Burns 29-1406; Baldwin 7382. Acts 1881 (Spec. Sess.); Burns 29-1505. 29-1701 to 29-1704; Baldwin 7182, 7246 to 7249. Acts 1933; Burns 29-1903; Baldwin 7252. Acts 1905, 1909; Burns 48-1246; Baldwin 11424.

<sup>386</sup> Acts 1881 (Spec. Sess.); Burns 29-701; Baldwin 7081.

<sup>387</sup> Acts 1915, 1917; Burns 29-508; Baldwin 7184.

<sup>388</sup> Acts 1907, ch. 282, secs. 1, 13. Acts 1915, 1917; Burns 29-504; Baldwin 7190. See the essay entitled "Board of Primary Election Commissioners."

"Courts of equity have no jurisdiction to interfere in the purely political activities of political party organizations." State ex rel. Marion County Democratic Committee v. Marion Superior Court, 214 Ind. 322, 15 N. E. (2d) 379 (1938).

<sup>389</sup> Acts 1915, 1917; Burns 29-504; Baldwin 7190.

<sup>390</sup> Acts 1905, 1927; Burns 29-1401; Baldwin 7377.

Primary elections are conducted by the following officials for each precinct: One election inspector, two election judges, two poll clerks, two election sheriffs, and one pollbook holder for each political party participating in the election. Their qualifications and duties are the same as those of the corresponding precinct officials for general elections. The inspector, judges, and clerks are appointed as follows: The party casting the highest vote for Secretary of State at the last general election appoints the inspector, the party casting the next highest vote appoints one election judge, and so on in rotation among all parties participating in the election. The sheriffs and pollbook holders are appointed in the manner in which they are appointed for general election.<sup>391</sup>

General elections are held biennially on the first Tuesday after the first Monday in November of even-numbered years.<sup>392</sup> County officers elected by the people are county commissioners, county councilmen, judge of the circuit court, clerk of the circuit court, auditor, treasurer, sheriff, coroner, recorder, prosecuting attorney, surveyor, and county assessor.<sup>393</sup> These elections are held under the supervision of the county board of election commissioners, which prepares and distributes the ballots therefor.<sup>394</sup>

For a general election the county board of election commissioners appoints the election officials for each precinct, namely, one election inspector, two election judges, two poll clerks (and two assistant poll clerks if necessary), and two election sheriffs. The election inspector and election judges constitute the precinct board of election. The other precinct officials assist this board in conducting the general election. The election judges, poll clerks, and election sheriffs must be qualified voters of opposite political faith. They are nominated by the chairmen of their respective county central committees. The inspector and judges must have been freeholders and resident householders of the precinct for at least 1 year, or resident householders therein for at least 2 years preceding the election, unless persons having these qualifications are not available. The inspector of elections is nominated by the chairman of the party casting the highest number

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<sup>391</sup> Acts 1915, 1917; Burns 29-505, 29-507; Baldwin 7191, 7193.

<sup>392</sup> Acts 1881 (Spec. Sess.); Burns 29-701; Baldwin 7081.

<sup>393</sup> See the separate essays for these offices.

<sup>394</sup> Acts 1889; Burns 29-1002; Baldwin 7106. See the essay entitled "County Board of Election Commissioners."



of votes in the county in the last election for Secretary of State. The township trustee serves as the election inspector in the precinct in which he resides unless he is disqualified. Each party may appoint one challenger and one pollbook holder in each precinct to represent that party in the challenge of voters.<sup>395</sup>

The Constitution provides that all elections shall be "free and equal," prescribes the length of residence required of an elector, designates the time of holding elections, and gives the Legislature power to provide for the registration of voters.<sup>396</sup>

All voters at general elections and State-wide special elections must be duly registered for voting;<sup>397</sup> must be citizens of the United States; must be of the age of 21 years and upwards at the time of the election; and must have resided in the State 6 months, in the township 60 days, and in the ward or precinct 30 days, immediately preceding the election. Any person who has these qualifications may vote at the primary election next preceding the general or special election. If he is not so qualified at the time of the primary election but will be so qualified at the time of the general or special election, he may vote in the primary election on making an affidavit in the form required by law for such voters.<sup>398</sup> Students, soldiers, sailors, and marines acquire no residence in the State for voting purposes by virtue of temporary residence or of being stationed therein.<sup>399</sup> The registration officer (the clerk of the circuit court ex officio) conducts the registration of voters.<sup>400</sup>

Any political or civic party, association, or organization may, at any time prior to any election, take a poll of voters qualified to vote at the next ensuing election, in any district,

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<sup>395</sup> Acts 1929, 1933, 1941; Burns, 1941 suppl., 29-804; Baldwin, 1941 suppl., 7093. Acts 1929; Burns 29-805 to 29-807; Baldwin 7094 to 7096.

<sup>396</sup> Const. 1851, art. 2, secs. 1, 2, 14.

<sup>397</sup> Acts 1933; Burns 29-301; Baldwin 7289. Acts 1933, 1935; Burns, 1941 suppl., 29-336; Baldwin, 1935 suppl., 7334. See the essays entitled "Registration Officer."

<sup>398</sup> U. S. Const. Amends. 14, 19. U. S. C., title 8, sec. 31 (law of 1870). Const. 1851, art. 2, sec. 2 (as amended in 1921). Acts 1915, 1917; Burns 29-510; Baldwin 7196. Acts 1881 (Spec. Sess.); Burns 29-703; Baldwin 7083. *Kelso v. Cook*, 184 Ind. 173, 110 N. E. 987 (1916).

<sup>399</sup> Const. 1851, art. 2, sec. 3. Acts 1881 (Spec. Sess.); Burns 29-705; Baldwin 7085. Acts 1935, 1941; Burns 1941 suppl., 29-2601; Baldwin, 1941 suppl., 7089-1.

<sup>400</sup> Acts 1933, 1935, 1941; Burns, 1941 suppl., 29-306(a); Baldwin, 1941 suppl., 7304(a)



county, township, municipality, ward, precinct, or precincts of the State. The chairman, president, or other chief officer of the party, association, or organization taking such poll must issue to the person or persons employed in taking the poll a certificate showing the nature of such employment and the party, organization, or association for which the poll is taken. Failure to furnish correct information to these poll takers is punishable as a criminal offense.<sup>401</sup>

The board of county commissioners participates in various ways in the conduct of elections. The more important functions of the board in that connection are those of establishing election precincts and changing their boundaries;<sup>402</sup> providing rooms for polling places and equipping them with voting booths and ballot boxes;<sup>403</sup> and the purchase of voting machines for the several precincts.<sup>404</sup>

Any qualified and registered elector of the county who by reason of the nature of his business, attendance at some educational institution, or service in the Army or Navy, is absent or expects to be absent from the county on the day of holding an election may vote by an absent-voter's ballot which he, by mail or in person, procures from the clerk of the circuit court.<sup>405</sup>

When any elector presents himself to vote at an election, he is required to sign his name and address on the voters' poll list. In case of doubt concerning his identity, such signature is compared with the signature on the affidavit of registration. As soon as he has voted, a notation is made on his affidavit of registration showing he has voted at that election. If the voter cannot sign his name, it will be written for him by an election clerk, with the clerk's initials in parentheses, after the identity of the voter has been established by interrogation. If any member of the election board is not satisfied that any person who presents himself to vote is the person he represents himself to be, he may

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<sup>401</sup> Acts 1897; Burns 29-401 to 29-406; Baldwin 7343 to 7348.

<sup>402</sup> Acts 1933; Burns 29-319; Baldwin 7317. Acts 1886, 1907; Burns 29-801; Baldwin 7089. Acts 1920 (Spec. Sess.); Burns 29-901; Baldwin 7091.

<sup>403</sup> Acts 1920 (Spec. Sess.); Burns 29-909; Baldwin 7154. Acts 1897; Burns 29-1121; Baldwin 7135.

<sup>404</sup> Acts 1939; Burns, 1941 suppl., 29-562; Baldwin, 1939 suppl., 7245-1. Acts 1901, 1903; Burns 29-204; Baldwin 7352.

<sup>405</sup> Acts 1935, 1941; Burns, 1941 suppl., 29-2601 to 29-2623; Baldwin, 1941 suppl., 7348-1 to 7348-23.

challenge the vote of such person, in which event such person must sign an affidavit as set forth in the next paragraph.<sup>406</sup>

When any person offering to vote is challenged by one of the challengers or by any member of the election board, he must stand aside and must not vote until he makes an affidavit in statutory form, and, in elections at which registration is required, produces his certificate of registration. The affidavit must state that he is a qualified and legal voter of the precinct and must set forth his name, residence, occupation, and place or places of residence during the 6 months immediately preceding the election, with the date of any removal within that time. It must also state the names of two persons who have personal knowledge of his residence in the precinct 30 days and the township 60 days immediately preceding the election. He will then be allowed to vote unless the challenger or some qualified voter of the precinct makes an affidavit that he knows, or is informed and verily believes, that the person offering to vote is not a legal voter in the precinct. If the latter affidavit is made on information and belief, it must set forth the names of the persons from whom such information was obtained. After this counter affidavit is made, the person offering to vote cannot vote unless he presents the affidavit of another person showing that he is a legal voter of the precinct. Forms of these affidavits are set out in the statutes and printed blanks containing the same are available at each voting place.<sup>407</sup>

The board of canvassers (consisting of the election commissioners,<sup>408</sup> with the clerk of the circuit court acting as clerk)<sup>409</sup> tabulates and compiles the election returns, files all data, canvass sheets, certificates, pollbooks, and tally papers in the office of the clerk, and certifies the candidates elected.<sup>410</sup> Each of the four major political parties is entitled to have one watcher present during the voting and canvassing at general elections.<sup>411</sup> Each political party

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<sup>406</sup> Acts 1933, 1935, 1941; Burns, 1941 suppl., 29-306(a); Baldwin, 1941 suppl., 7304. Acts 1933, 1941; Burns, 1941 suppl., 29-332; Baldwin, 1941 suppl., 7330.

<sup>407</sup> Acts 1933; Burns 29-1122; Baldwin 7136.

<sup>408</sup> Acts 1905, 1927; Burns 29-1401; Baldwin 7377.

<sup>409</sup> Acts 1905; Burns 29-1402; Baldwin 7378.

<sup>410</sup> Acts 1905; Burns 29-1404, 29-1405; Baldwin 7380, 7381.

Duty to disregard all improperly marked ballots. *Craney v. Trayler*, 214 Ind. 542, 16 N. E. (2d) 845 (1938).

<sup>411</sup> Acts 1897, 1901, 1909, 1941; Burns, 1941 suppl., 29-1301; Baldwin 1941 suppl., 7147.

represented at a primary election and each daily newspaper of general circulation is entitled to similar watchers at the canvassing of ballots cast at such primary election.<sup>412</sup>

Recount of ballots must be ordered by the circuit court if a petition and cost bond therefor are presented by a defeated candidate within 15 days after the election. Such recount is made by commissioners appointed by the court, and it supersedes the certificate of the county board of canvassers. Thereafter the court hears the contentions of the parties and determines the result of the election.<sup>413</sup>

Each candidate for public office must file with the clerk of the circuit court, within 30 days after the election (general, special, or primary), a sworn statement setting forth his election expenses and promises. Failure to file such statement is a criminal offense and disqualifies the candidate from holding the office sought by him in such election.<sup>414</sup>

## EDUCATION

### FUNDS

The Ordinance of 1787, which created the Northwest Territory had provided for the creation of not less than three nor more than five States therefrom (of which Indiana was one), contained the following provisions: "Religion, morality, and knowledge, being necessary to good government and the happiness of mankind, schools and the means of education shall forever be encouraged."<sup>415</sup> The act of Congress of April 19, 1816 for the admission of Indiana Territory as a State contained the following provision: "Section numbered sixteen, in every township, and when such section has been sold, granted or disposed of, other lands equivalent thereto, and most contiguous to the same, shall be granted to the inhabitants of such township for the use of schools." The moneys arising from the sale of such lands became known as the "Congressional

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<sup>412</sup> Acts 1915; Burns 29-527; Baldwin 7213. Acts 1931; Burns 29-528; Baldwin 7214. Acts 1939; Burns, 1941 suppl., 29-569; Baldwin, 1939 suppl., 7245-8.

<sup>413</sup> Const. 1851, art. 2, sec. 14 (as amended in 1881). Acts 1933, ch. 242. Acts 1935, ch. 82. Acts 1941, ch. 122. State ex rel. Lord v. Sullivan, 214 Ind. 279, 15 N. E. (2d) 384 (1938); State ex rel. Robertson v. Lake Circuit Court, 215 Ind. 18, 17 N. E. (2d) 805 (1938); Gossard v. Vawter, 215 Ind. 581, 21 N. E. (2d) 416 (1939).

<sup>414</sup> Acts 1911, 1913, 1915; Burns 29-2508; Baldwin 7445.

<sup>415</sup> U. S. Stat. 1:52 note (Law of 1787).

township fund."<sup>416</sup> These funds were not handled efficiently before 1851.<sup>417</sup>

Interest in education grew slowly before 1849. In that year the first tax law for the support of schools was passed.<sup>418</sup> Previous to the imposition of this school tax, the only sources of revenue for school operation were liquor license fees, fines for breach of the penal laws, numerous statutory penalties, leases of school lands, and interest on loans from the Congressional township fund.<sup>419</sup> It was not until after the adoption of the Constitution of 1851 and the passage of the school law of 1852 that education received any effective attention from the State.<sup>420</sup> The school law of 1865 brought the most complete revision.<sup>421</sup> The Constitution provides that the General Assembly shall encourage and provide for a general and uniform system of common schools.<sup>422</sup>

The Constitution of 1851 established the common school fund composed of the Congressional township fund and the lands belonging thereto; the surplus revenue fund; the bank tax fund; the saline fund and the lands belonging thereto; the funds to be derived from the sale of county seminaries, and the moneys and properties previously held for such seminaries; fines and forfeitures; decedents' estates escheated to the State for want of heirs; taxes on the property of corporations which may be assessed by the General Assembly for common school purposes; and all lands granted to the State without designation of purpose, and the proceeds of sale thereof (including the proceeds of sale of swamplands granted in 1850, less the expense of selection and drainage).<sup>423</sup> The provision concerning the sale

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<sup>416</sup> U. S. Stat. 3:289 (law of 1816).

<sup>417</sup> Logan Esarey, *History of Indiana*, II, 679.

<sup>418</sup> Acts 1848-49 (general), ch. 116, sec. 1. Fasset A. Cotton, *Education of Indiana (1793 to 1934)*, p. 10.

<sup>419</sup> Acts 1816-17, ch. 11, sec. 12; ch. 27, sec. 1. Acts 1817-18 (general), ch. 4, sec. 3; ch. 20, sec. 2; ch. 33, sec. 9. Acts 1818-19, ch. 5, sec. 2. Rev. L. 1824, ch. 22, sec. 2; ch. 39, sec. 9. Acts 1829-30, ch. 9, sec. 4, Rev. L. 1831, ch. 54, sec. 15, ch. 86, secs. 16, 50.

<sup>420</sup> Const. 1851, art. 8. 1 Rev. Stat. 1852, ch. 98.

<sup>421</sup> Acts 1865; Burns 28-101; Baldwin 6499.

<sup>422</sup> Const. 1851, art. 8, sec. 1.

<sup>423</sup> Const. 1851, art. 8, secs. 2-7. Acts 1865; Burns 28-101; Baldwin 6499.

Fines for contempt of court go into the common school fund. *Swift v. State ex rel Clark*, 63 Ind. 81 (1878).

Swamplands granted to State. U. S. Stat. 9:519 (law of 1850).



of seminary properties and transfer of funds derived therefrom was declared void by the Supreme Court of Indiana in 1862.<sup>424</sup>

The Constitution of 1851 provided that the principal of the common school fund must remain a perpetual fund and be invested so that it might increase but never diminish; and that the interest earned by the fund might be expended for the support of the common schools and for no other purpose. The General Assembly was required to invest all funds that were not already under the supervision of the counties, and was directed to provide laws for the distribution of the interest to the counties.<sup>425</sup>

The school funds managed by the county are kept by the county auditor in three separate accounts: (a) The common school fund; (b) the Congressional township fund; and (c) the permanent endowment fund of Indiana University. The last fund was derived from a tax levy of one-half of 1 cent on each \$100 of taxable property for the years 1883 through 1895, and was distributed among the several counties according to population. Loans from these three funds are made by the county school fund board. Each county is held liable for the preservation of the funds intrusted to it, and for the payment of the annual interest. The interest on the Congressional township fund remains in the township and is distributed to the school township and the school cities and school towns therein. The basis of this distribution is the average daily attendance of school children in these school corporations. The interest on the Congressional township fund and the interest on the common school fund are treated as a combined fund for the purpose of computing the apportionment and distribution of the common school fund, which is distributed from the State treasury to the counties on the basis of average daily attendance therein. The amount received by each county from the interest on the common school fund is apportioned by the county auditor to the townships, school cities, and school towns within the county on the basis of average daily attendance. The amount of revenue received by a school corporation from the Congressional township fund is credited on the amount apportioned to such school corporation under the combined fund. The interest on the common school fund and Congressional township fund is used for the support of the

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<sup>424</sup> Edwards v. Jagers, 19 Ind. 407 (1862).

<sup>425</sup> Const. 1851, art. 8, secs. 3-5. Acts 1865; Burns 28-101; Baldwin 6499. Acts 1907;

Burns 28-102; Baldwin 6500.



common schools in the school corporations participating therein. Fulton County (including Rochester) received \$5,679.01 for the school year 1939-40 from this source. The interest on the permanent endowment fund of Indiana University is paid to the State Treasurer, and he pays it to the trustees of Indiana University.<sup>426</sup>

The interest on the school funds aforesaid is supplemented by other funds provided by the General Assembly for the public schools. From the general fund, the State supplies the county with tuition support of not less than \$700 annually for each teaching unit of 35 pupils in average daily attendance in grades 1 to 8, and for each unit of 25 pupils in average daily attendance in grades 9 to 12. This fund is known as the "school tuition support fund."<sup>427</sup> The total amount received by Fulton County (including Rochester) from this source during the school year 1939-40 was \$75,500.60.<sup>428</sup>

From the moneys raised from the excise tax against dealers in alcoholic beverages, one-third is distributed to the school corporations on the basis of average daily attendance.<sup>429</sup> Fulton County (including Rochester) received \$3,308.15 from this source for the school year 1939-40.<sup>430</sup>

A State stamp tax on intangible property has further provided financial aid to the schools. The money is collected and held separate from the general fund. Of the total amount, 10 percent is kept by the State for the expense of administering that tax, and the remainder is apportioned to the counties on the basis of assessed valuation of real property in the several

<sup>426</sup> Const. 1851, art. 8, secs. 2-7. Acts 1907; Burns 23-102; Baldwin 6500. Acts 1865; Burns 23-104, 28-105; Baldwin 6499-1, 6511. Acts 1865, 1873, 1897; Burns 23-1008; 28-1019; Baldwin 6485, 6496. Acts 1865, 1893, 1932 (Spec. Sess.), 1933; Burns 28-1013; Baldwin 6490. Board of County Comrs. v. State ex rel. Hard, 103 Ind. 497, 3 N. E. 155 (1885). Board of County Comrs. v. Michener, 120 Ind. 442, 22 N. E. 339 (1889). Yr. Bk. 1940, pp. 1000, 1016. Information obtained from E. P. Brennan, State Examiner, on February 26, 1941, by Emerson Brock. See the essays entitled "County School Fund Board."

Permanent endowment Fund of Indiana University. Acts 1897; Burns 28-5542 to 28-5545; Baldwin 6908 to 6911. Acts 1883; Burns 28-5579; Baldwin 6956. Fisher v. Brower, 159 Ind. 139, 64 N. E. 614 (1902).

<sup>427</sup> Acts 1933, 1935, 1937; Burns, 1941 suppl., 28-1901 to 28-1903; Baldwin, 1937 suppl., 6502 to 6504.

<sup>428</sup> Yr. Bk. 1940, pp. 1000, 1016.

<sup>429</sup> Acts 1935, 1939; Burns, 1941 suppl., 12-811; Baldwin, 1939 suppl., 3764-40f. Acts 1865, 1893, 1932 (Spec. Sess.), 1933; Burns 28-1012; Baldwin 6490.

<sup>430</sup> Yr. Bk. 1940, pp. 1000, 1016.

counties. One-fourth of the amount received by each county is retained for its general fund, and the remainder is distributed to the school taxing units in the county on the basis of assessed valuation of real property in the several units.<sup>431</sup> For the school year 1939-40 Fulton County (including Rochester) received \$4,581.18 from this source.<sup>432</sup>

In 1933 the common school relief fund was established for the purpose of aiding schools to continue in operation. The fund is derived from a 7 cent tax levy on each \$100 of taxable property, real or personal, and a poll tax of 50 cents on each taxable poll.<sup>433</sup> Whenever any township trustee or board of trustees of any school town or school city ascertains that there is an insufficient amount of revenue to maintain the school for a term not to exceed 8 months, such trustee or board must file with the county superintendent of schools a certificate showing the needs of such township, school town, or school city, and its outstanding debts and accounts.<sup>434</sup> The county superintendent of schools forwards the certificate to the State Board of Education,<sup>435</sup> and this board and the State Board of Accounts must examine the certificate and decide on the amount to be allotted to the school unit. In connection with the award of such relief funds, the State Board of Education may require the recipient to make sufficient appropriations, taxlevies, and tax rates to liquidate its outstanding debts and accounts as set forth in the certificate aforesaid.<sup>436</sup> The money received must first be used to pay any unpaid items of operating expenses which accrued before the making of such application; and any surplus must be used for the operating expenses of the current school year.<sup>437</sup> Neither Fulton County nor Rochester received any money from this source for the school year of 1939-40.<sup>438</sup>

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<sup>431</sup> Acts 1933; Burns 64-922; Baldwin 15920.

<sup>432</sup> Yr. Bk. 1940, pp. 1000, 1016.

<sup>433</sup> Acts 1931, ch. 163, sec. 1. Acts 1933; Burns 28-901; Baldwin 6431.

<sup>434</sup> Acts 1931, ch. 163, sec. 4. Acts 1933; Burns 28-903; Baldwin 6433. Acts 1933, 1941; Burns, 1941 suppl., 28-906; Baldwin 1941 suppl., 6436.

<sup>435</sup> Acts 1931, ch. 163, sec. 5. Acts 1933; Burns 28-904; Baldwin 6434.

<sup>436</sup> Acts 1931, ch. 163, sec. 6. Acts 1933; Burns 28-905; Baldwin 6435. Acts 1933, 1941; Burns, 1941 suppl., 28-906; Baldwin, 1941 suppl., 6436.

<sup>437</sup> Acts 1933, 1935; Burns, 1941 suppl., 28-907; Baldwin, 1935 suppl., 6437. Op. Atty. Gen. 1939, p. 197.

<sup>438</sup> Yr. Bk. 1940, pp. 1000, 1016.

The State has designated certain funds for the advancement of vocational education. Fulton County received \$926 for this purpose in the school year 1939-40.<sup>439</sup>

From 1927 until 1937 any surplus in the county dog fund on the first Monday in March each year, after provision was made for certain disbursements therefrom, was distributed for the schools of the county in the same manner the "common school revenue of such county" was distributed. A 1937 law provides that any money in the "State dog account" in excess of \$50,000 remaining after certain annual distributions therefrom must be transferred by the Auditor of State to the "State school revenue fund."<sup>440</sup> Other available school funds, not otherwise accounted for and including such items as school transfers, sale of school property, donations etc., are known as "miscellaneous revenue receipts". From this source for the school year 1939-40 Rochester received \$19,834.83 and Fulton County received nothing.<sup>441</sup>

The total amount received by Fulton County (including Rochester) to be used for school purposes from all the above mentioned sources for the school year 1939-40 was \$109,829.77.<sup>442</sup>

The school cities, towns, and townships may levy property taxes and poll taxes<sup>443</sup> for the following school purposes: Renting, repairing, and constructing schoolhouses; furnishings, apparatus, fuel, tuition, and other current expenses;<sup>444</sup> to enforce compulsory education and keep poor children in school;<sup>445</sup> to provide free textbooks;<sup>446</sup> to provide rooms and equipment for the teaching of agriculture, home economics, physical culture, and practical mental culture;<sup>447</sup> establishment of vocational schools;<sup>448</sup> and for the retirement of school bonds.<sup>449</sup>

<sup>439</sup> *Ibid.* Acts 1913, 1919; Burns 28-4902; Baldwin 6448.

<sup>440</sup> Acts 1927, ch. 176, sec. 10. Acts 1929, ch. 58, sec. 1. Acts 1935, ch. 271, sec. 4. Acts 1937; Burns, 1941 suppl., 16-326, 16-327; Baldwin, 1937 suppl., 3811-10, 38-11-11. Finerty v. State ex rel. School City of Gary, 213 Ind. 470, 12 N. E. (2d) 941 (1938).

<sup>441</sup> Yr. Bk. 1940, pp. 1000, 1016.

<sup>442</sup> *Ibid.*

<sup>443</sup> Acts 1919; Burns 64-101; Baldwin 15514.

<sup>444</sup> Acts 1865, 1873, 1905, 1917; Burns 28-1101; Baldwin 6442.

<sup>445</sup> Acts 1921; Burns 28-513; Baldwin 6706.

<sup>446</sup> Acts 1935; Burns, 1941 suppl., 23-624, 28-628, 28-629; Baldwin 1935 suppl., 6677-1, 6677-5, 6677-6.

<sup>447</sup> Acts 1913; Burns 28-3421; Baldwin 6468.

<sup>448</sup> Acts 1913, 1919; Burns 28-4902; Baldwin 6448.

<sup>449</sup> Acts 1937; Burns, 1941 suppl., 28-3218; Baldwin, 1937 suppl., 6623-11.

Local taxation produced \$193,241.14 for educational purposes in Fulton County (including Rochester) in the school year 1939-40.<sup>450</sup>

## ORGANIZATION

There are two major types of school organizations: (a) County schools; and (b) town and city schools. The "county schools" are, in reality, township schools and are operated by the township trustees severally. The town and city schools are operated in a similar manner by school boards composed of three members appointed by the board of town trustees or the city council.<sup>451</sup> All public schools are under the control of the Legislature. Local government units act only as legislative agencies in the operation of schools.<sup>452</sup>

The county superintendent of schools, who is elected by the township trustees, has charge of each township institute, aids the trustee in the supervision of the township schools, and carries out all orders and instructions of the State Superintendent of Public Instruction and the State Board of Education. He has no supervision of city or town schools.<sup>453</sup>

The township trustees, the county superintendent of the schools, and chairman of the school board of each city and town in the county compose the county board of education. The members of each city and town school board other than the chairman may attend the meetings of the county board of education but have no vote in the proceedings. The county board of education meets semiannually to consider the general needs of the schools.<sup>454</sup>

The local school systems are closely supervised by the State Board of Education, with the State Superintendent of Public Instruction as its administrative head.<sup>455</sup> One of

<sup>450</sup> Yr. Bk. 1940, pp. 998, 1016.

<sup>451</sup> Acts 1905, 1915, 1919; Burns 28-1201; Baldwin 5962.

<sup>452</sup> Anderson v. Brand, 214 Ind. 347, 5 N. E. (2d) 531, 913, 7 N. E. (2d) 777, 13 N. E. (2d) 955 (1938).

<sup>453</sup> Acts 1899, 1911, 1913; Burns 28-702, 28-704, 28-705; Baldwin 5931, 5938, 5940. State ex rel. Neneker v. Sutton, 99 Ind. 300 (1884); State ex rel. Drummond v. Dillon, 125 Ind. 65, 25 N. E. 136 (1880). See the essays entitled "County Superintendent of Schools."

<sup>454</sup> Acts 1873, 1877; Burns 28-801; Baldwin 5983. Information obtained from Grover Van Duyn, Assistant State Superintendent of Public Instruction, on July 26, 1939, by W. Davis Hamilton. See the essay entitled "County Board of Education."

<sup>455</sup> Acts 1865; Burns 28-301, 28-302; Baldwin 5890, 5891. Acts 1913; Burns 28-401; Baldwin 5906. Acts 1939; Burns, 1941 suppl., 28-401a; Baldwin, 1939 suppl., 5906-1.



the most important functions of the State Board of Education is the issuing of teachers' licenses. These are graded according to the kind and amount of training and experience of the licenses.<sup>456</sup> The State Board of Education provides for the inspection of schools,<sup>457</sup> adopts a uniform series of textbooks,<sup>458</sup> and prescribes an accredited course of instruction for teacher training.<sup>459</sup>

Except as otherwise provided hereinafter, every child between the ages of 7 and 16 years must attend "public school or other school taught in the English language which is open to the inspection of local and State attendance and school officers"; and the child must attend "such a school each year during the entire time the public schools are in session in the school district in which such child resides." A child will be excused for 1 year on a certificate of a physician that the child is physically or mentally unfit for school attendance. Children who are deaf or blind may be sent to the Indiana State School for the Deaf or the Indiana State School for the Blind. The judge of the circuit court, when sitting as a juvenile court, may suspend the provisions of the compulsory attendance law in cases of juvenile delinquents and incorrigibles, and may make special provisions for their education, such as placing them in special private schools or in the State correctional schools (Indiana Boys' School and Indiana Girls' School).<sup>460</sup>

Whenever colored children reside in any school corporation, the school trustee or trustees may establish separate schools for them. These schools must provide rights, privileges, and advantages equal to those in the other schools in the corporation. If no such school is available, colored children must attend the public schools with white children.<sup>461</sup> Colored schools are represented on the State Board of Education

<sup>456</sup> Acts 1865; Burns 28-404; Baldwin 5920. Acts 1923; Burns 28-4201 to 28-4217; Baldwin 5912 to 5928.

<sup>457</sup> Acts 1921; Burns 28-304, 28-305; Baldwin 6048, 5939.

<sup>458</sup> Acts 1869, 1909, 1917; Burns 28-601; Baldwin 6672.

<sup>459</sup> Acts 1923; Burns 28-4205; Baldwin 5916.

<sup>460</sup> Acts 1903, 1913, 1931, 1935, 1937; Burns, 1941 suppl., 9-2801; Baldwin, 1937 suppl., 1759. Acts 1903, 1905, 1907, 1913; Burns 9-2814; Baldwin 1761. Acts 1921; Burns 28-505; Baldwin 6398. Op Atty. Gen. 1939, p. 322.

<sup>461</sup> Acts 1869 (Spec. Sess.), 1877, 1935; Burns, 1941 suppl., 28-5104; Baldwin, 1935 suppl., 6012.



by the required presence of one member of the negro race.<sup>462</sup>

In 1913 the General Assembly first provided that school corporations might establish vocational schools or departments for industrial, agricultural, and home economics education. These courses are established in a manner approved by the State Board of Education, and are maintained by the regular school funds or by a special tax levy.<sup>463</sup> Classes may be held during the day or evening. The instruction is of less than college grade, but designed to meet the needs of persons over 14 years of age.<sup>464</sup>

Township trustees may furnish free transportation of pupils to and from township schools. If such transportation is provided, free transportation must also be furnished along the regular route for pupils attending parochial schools. If a township school is discontinued without being consolidated with a town school or city school, the township trustee must assign the pupils to another school and furnish transportation for those who live more than 1½ miles from the school to which they are assigned. In case of consolidation of a township school with a town school or city school, transportation must be furnished for all pupils who live more than ½ mile outside the corporate limits of the town or city in which the consolidated school is located.<sup>465</sup>

## PUBLIC HEALTH

The Indiana State Board of Health closely supervises and directs all local public health activities.<sup>466</sup> Public health services are administered in Fulton County by a part-time county health officer. He is appointed by the board of commissioners, subject to approval by the State Board.<sup>467</sup> The

<sup>462</sup> Acts 1939; Burns, 1941 suppl., 28-401a; Baldwin, 1939 suppl., 5906-1.

<sup>463</sup> Acts 1913, 1919; Burns 28-4902; Baldwin 6448.

<sup>464</sup> Acts 1913, 1919; Burns 28-1919; Burns 28-4603; Baldwin 6449.

<sup>465</sup> Acts 1917, 1921; Burns 28-1220, 28-1228; Baldwin 6197, 6206. Acts 1925; Burns 28-1231, 28-1241; Baldwin 6208, 6218. Acts 1929; Burns 28-1242, 28-1252; Baldwin 6219, 6229. Acts 1935; Burns, 1941 suppl., 28-1266, 28-1274; Baldwin, 1935 suppl., 6230-1, 6230-9. Acts 1907, 1909, 1935, 1937; Burns, 1941 suppl., 28-2803; Baldwin, 1937 suppl., 6251. Acts 1921, 1933; Burns 28-2805; Baldwin 6266. Acts 1927; Burns 28-3504; Baldwin 6079. Acts 1917; Burns 28-3801; Baldwin 6271. Acts 1937; Burns, 1941 suppl., 28-3810; Baldwin, 1937 suppl., 6266-1. Op. Atty. Gen. 1939, pp. 25, 74, 91, 366.

<sup>466</sup> Acts 1891, 1909; Burns 35-105, 35-106; Baldwin 8390, 8391.

<sup>467</sup> Acts 1935; Burns, 1941 suppl., 35-118, 35-123; Baldwin, 1935 suppl., 8404-1, 8404-6.

State Board of Health is composed of several bureaus which perform many services for the local health officers. Some of these bureaus furnish laboratory services such as inspection of dairy products, analysis of water, food, and drugs, and making of bacteriologic<sup>468</sup> and pathological tests.

The educational facilities offered by the State Board are many. Literature, lectures, lantern slides, and motion picture films are available for use in schools and clubs or organizations desiring information on public health. These facilities may be obtained from the Bureau of Health and Physical Education, the Bureau of Communicable Diseases, and the Bureau of Venereal Diseases.<sup>469</sup>

The State Board of Health distributes insulin, pneumonia serum, diphtheria toxoid, smallpox virus, and typhoid bacterins to physicians for indigent patients.<sup>470</sup>

Health laws provide that public water supplies must be inspected by the State Board of Health;<sup>471</sup> that manufacturing, storage, and retail establishments dealing in foodstuffs must maintain certain standards of sanitation and cleanliness;<sup>472</sup> that dwellings which are unsanitary, unsafe, unhealthful, or rendered uninhabitable by "the existence on the premises of a nuisance likely to cause sickness" among the occupants must be properly inspected and ordered vacated;<sup>473</sup> and that health officers must ascertain the existence of rat infestations, order their extermination, and recommend methods of extermination.<sup>474</sup>

Food and drug products are inspected in the State laboratory for adulteration or misbranding.<sup>475</sup> Dairy products are tested for butter fat content and weight.<sup>476</sup>

<sup>468</sup> Acts 1921; Burns 22-203; Baldwin 4141. Acts 1919; Burns 35-214; Baldwin 8428. Acts 1905; Burns 35-302; Baldwin 8394.

Test for rabies. Acts 1935; Burns, 1911 suppl., 35-711; Baldwin, 1935 suppl., 3863-1

<sup>469</sup> Acts 1891, 1909; Burns 35-106; Baldwin 8391. Information obtained from Dr. Verne K. Harvey, director of the State Board of Health, on August 17, 1939, by W. Davis Hamilton.

<sup>470</sup> Acts 1907, 1919, 1929, 1935, 1939; Burns 1941 suppl., 35-701 to 35-703, 35-710, 35-712; Baldwin, 1935 suppl., 13392 to 13394, 13395-1; Baldwin, 1939 suppl., 13395-2.

<sup>471</sup> Acts 1909; Burns 35-202, 35-203; Baldwin 8411, 8412.

<sup>472</sup> Acts 1909; Burns 35-1001, 35-1009; Baldwin 8504, 8512. Acts 1919; Burns 35-1101, 35-1103; Baldwin 8514, 8516.

<sup>473</sup> Acts 1917; Burns 35-1801; Baldwin 8563.

<sup>474</sup> Acts 1913; Burns 35-1601, 35-1602; Baldwin 8570, 8571.

<sup>475</sup> Acts 1905; Burns 35-302; Baldwin 8394. Acts 1907; Burns 35-1201; Baldwin 8432.

Acts 1939, ch. 38.

<sup>476</sup> Acts 1913; Burns 35-1301; Baldwin 8455.

Contagious diseases must be reported to the State Board and properly quarantined by the health officer.<sup>477</sup> All cases of tuberculosis<sup>478</sup> and leprosy must be reported to the State Board of Health as soon as they are diagnosed. The State Board has jurisdiction to direct the care and disposition of lepers.<sup>479</sup>

All birth certificates must show that the attendant at such birth took the proper precautions to prevent ophthalmia neonatorum (the disease causing infant blindness).<sup>480</sup> If an infant's eyes show any sign of infection within 2 weeks after the date of birth, a written report thereof must be made to the health officer within 6 hours after such discovery.<sup>481</sup>

All persons applying to the clerk of the circuit court for a marriage license must present a certificate from a licensed physician stating that the applicant is not infected with communicable syphilis. Before giving such certificate, the physician must have a blood specimen of the applicant examined by the laboratory of the State Board of Health or a laboratory approved by the Board. The test must be made not more than 30 days before the application for a license. The judge of the circuit court may waive these requirements at any time in case of "emergency or other causes shown by affidavit or other proof."<sup>482</sup>

The county health officer enforces the State health laws and regulations of the State Board of Health; promotes health education ; collects vital statistics; makes periodic reports to the State Board of Health; and keeps records of these reports in his record books.<sup>483</sup>

Counties have statutory authority to construct and maintain public hospitals,<sup>484</sup> but conditions prevailing in Fulton County have not required a county hospital.

<sup>477</sup> Acts 1903; Burns 35-401, 35-403; Baldwin 8531, 8533.

<sup>478</sup> Acts 1917; Burns 35-601, 35-602; Baldwin 8402, 8552.

<sup>479</sup> Acts 1917; Burns 35-501 to 35-503; Baldwin 8543 to 8545.

<sup>480</sup> Acts 1911; Burns 35-901; Baldwin 8558.

<sup>481</sup> Acts 1911; Burns 35-903; Baldwin 8560.

<sup>482</sup> Acts 1919; Burns, 1941 suppl., 44-213; Baldwin, 1939 suppl., 5624-1.

<sup>483</sup> Acts 1935; Burns, 1941 suppl., 35-118, 35-122, 35-123; Baldwin, 1935 suppl., 8404-1, 8404-

5, 8404-6.

<sup>484</sup> Acts 1917, 1919, 1921, 1925, 1927; Burns 22-3215; Baldwin 4517. Acts 1903, 1939; Burns, 1941 suppl., 22-3201; Baldwin, 1939 suppl., 4507.

## VITAL STATISTICS

In Indiana the collection of vital statistics is supervised by the Bureau of Vital Statistics of the State Board of Health.<sup>485</sup> The county health officer makes the collection of local data on forms supplied by the State Board of Health, and periodically delivers reports of all records to the State Board. The health officer collects statistics of births, deaths, marriages, and communicable diseases. Physicians, midwives, the clerk of the circuit court, and all responsible householders are required to report to the county health officer the facts needed for such statistics.<sup>486</sup> Physicians must report certain communicable diseases direct to the State Board of Health.<sup>487</sup>

All birth reports are to be made to the health officer within 36 hours after birth. Stillbirths of 7-months gestation and over are reported as births and deaths. A child that lives and breaths after birth, no matter how brief the period, and regardless of the period of gestation, is a living child; and if he thereafter dies, his birth and death must be reported and recorded.<sup>488</sup>

An act of 1939, effective January 1, 1940 requires each birth report to state whether a test for syphilis was made of the mother during pregnancy or at delivery. If such test was made the date must be shown but not the result.<sup>489</sup>

An act of 1941 provides that any person who has been a bona fide resident of a county in Indiana for more than one year (such residence to be proved by testimony of two householders of the county) may apply to the circuit court or superior court of such county to establish the time and place of his birth; that on the filing of his application the clerk must give public notice thereof by publication one time in a newspaper of general circulation; that the court must hear such application without a jury and may make an order declaring the time and place of applicant's birth; that the clerk must enter the order in a separate record to be known as the "birth certificate record" and must keep an index thereto;

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<sup>485</sup> Acts 1907, 1913; Burns 35-116; Baldwin 8399.

<sup>486</sup> Acts 1881, ch. 19, sec. 11. Acts 1891, ch. 15, sec. 11. Acts 1907, 1913; Burns 35-115; Baldwin 8398.

<sup>487</sup> State Board of Health, *Book of Instructions to Health Authorities*, Rule 10, p. 13.

<sup>488</sup> Acts 1907, 1911, 1913; Burns 35-115, 35-116, 35-901; Baldwin 8398, 8399, 8558. State Board of Health, *op. cit.*, Rule 4, p. 10.

<sup>489</sup> Acts 1939; Burns, 1941 suppl., 35-805; Baldwin, 1939 suppl., 8557-2.



that a copy of the order, to be furnished by the clerk, is prima facie evidence of the time and place of birth; and that the cost of publication must be paid by the applicant but no other costs may be charged against him.<sup>490</sup>

Another act of 1941 provides that when a judgment establishes the paternity of a child born out of wedlock, the clerk of the court must immediately prepare and transmit to the city or county health officer having the child's birth record a certified statement showing the name of the child, the date and place of its birth, the name and residence of its parents, and any additional information require by the State Board of Health. The health officer must immediately record the statement in a manner prescribed by the State Board and transmit it to the State Board for permanent filing. The fact that the child was born out of wedlock must not be disclosed except on order of a court when such fact is required for the determination of personal or property rights.<sup>491</sup>

Another act of 1941 provides that when a decree of adoption is rendered, the clerk must transmit to the State Department of Public Welfare and to the officer having the child's original birth record a certificate of adoption, signed by the judge, which must contain the full adopted name of the child, the date of its birth, the names and exact place of residence of the adopting parents, the name of the court, and the date of the decree. The former name of the adopted child must be omitted if the child is illegitimate or if the judge is of the opinion that such omission would be for the best interest of the child. If the original birth record of the child is in Indiana, the officer in charge thereof must record the certificate, retain the original birth record, and upon request must issue a birth certificate for such child showing the child's new name, its sex and date of birth, and the names of its foster parents, with no indication of the adoption or illegitimacy.<sup>492</sup>

Deaths are reported as soon as possible, because a body may not be buried until a burial permit has been issued by the health officer in charge, and burial permits are not issued until the death certificate is completed. If death has occurred by means of violence or criminal practices, the death

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<sup>490</sup> Acts 1941; Burns, 1941 suppl., 3-2901 to 3-2907; Baldwin, 1941 suppl., 8405-1 to 8405-7.

<sup>491</sup> Acts 1941; Burns, 1941 suppl., 3-649; Baldwin, 1941 suppl., 5699-27.

<sup>492</sup> Acts 1941; Burns, 1941 suppl., 3-125; Baldwin, 1941 suppl., 5699-44.



notice is referred to the coroner. Burial may be made anywhere in the State regardless of the county in which the permit is issued. When a death occurs outside the State, and the body is brought into the State for interment, the burial permit must be based on the transportation permit, and no record of the death is required.<sup>493</sup> The burial permit is preserved with the records of the cemetery.<sup>494</sup>

Certified copies of the official records of births and deaths are furnished by the county health officer or the State Board of Health on request of any applicant. Courts and public officials will receive these copies as proof of the facts stated therein.<sup>495</sup>

The clerk of the circuit court issues all marriage licenses, and makes a monthly report to the county health officer showing marriage statistics. The health officer records each marriage in his record book, and sends a quarterly report to the State Board of Health. Every marriage must be reported on an official blank, by the person performing the ceremony, within 3 days after the occurrence thereof, to the clerk of the circuit court of the county where the license was issued. The clerk keeps a record of each reported marriage, and will furnish a certified copy thereof on request of any applicant. Courts and public officials will receive these copies as proof of the facts therein stated.<sup>496</sup>

Weekly reports, on printed forms provided by the United States Public Health Service, summarizing all communicable diseases or stating the absence thereof, are made by the local health officers to the State Board of Health.<sup>497</sup>

The heads of all public and private institutions, such as hospitals, poor asylums, and places of confinement, are required to keep all statistics concerning the inmates and

<sup>493</sup> Acts 1907, 1913; Burns 35-115; Baldwin 8398. State Board of Health, *op. cit.*, Rule 3, p. 9.

<sup>494</sup> Acts 1929; Burns, 1941 suppl., 20-1021; Baldwin, 1939 suppl., 4617-21.

<sup>495</sup> Acts 1907, 1913; Burns 35-116; Baldwin 8399.

<sup>496</sup> Acts 1881, ch. 19, sec. 11. Acts 1891, ch. 15, sec. 11. Acts 1907, 1913; Burns 35-115; Baldwin 8398. Acts 1905, 1917; Burns 44-205; Baldwin 5625. 1 Rev. Stat. 1852; Burns 44-303; Baldwin 5634. State Board of Health, *op. cit.*, Rule 5, p. 11.

Injunction against illegal issuance of license. *Swiegart v. State*, 213 Ind. 157, 12 N. E. (2d) 134 (1938).

<sup>497</sup> Acts 1907, 1913; Burns 35-115; Baldwin 8398. State Board of Health, *op. cit.*, Rule 6, p. 11.

make reports directly to the State Board of Health as required by the board.<sup>498</sup>

No law requires the keeping of divorce records separate from records of other judgments; and no law requires the reporting or compiling of divorce statistics. A certified copy of a divorce decree rendered in a divorce suit in the county may be obtained from the clerk of the circuit court.

#### WELFARE ASSISTANCE

An important public service is the administration of the Public Welfare Act by the county department of public welfare, under the supervision of the Indiana State Department of Public Welfare.<sup>499</sup>

A recipient of old-age assistance must be at least 65 years old; must be a citizen of the United States; must have lived in the State for 5 years out of the last 9, the last year continuously; must be in need; must not be an inmate of a municipal, State, or National Institution; and, within the 5 years immediately before his application, must not have transferred his property to render himself eligible for assistance.<sup>500</sup> He must reveal all property and income in which he has an interest.<sup>501</sup> After an investigation the county department may grant him assistance, never exceeding \$40 a month.<sup>502</sup>

A blind person (his better eye having a disqualifying visual field defect or vision of not more than 20/200 with correcting glasses), in order to receive State assistance, must be 21 years old if a male or 18 years old if a female; must be a citizen of the United States; must have lost his eyesight while a resident of the State or have lived in the State 5 of the last 9 years, the last year continuously; must be in need; must not be an inmate of a municipal, State, or National institution; must not have transferred his property within the 5 years immediately before his application for the purpose of rendering himself eligible for assistance; and must

<sup>498</sup> Acts 1907, 1913; Burns 35-117; Baldwin 8400.

<sup>499</sup> See the essay entitled "County Department of Public Welfare."

<sup>500</sup> Acts 1936 (Spec. Sess.), 1937; Burns, 1941 suppl., 52-1201; Baldwin, 1937 suppl.,

14078-32.

<sup>501</sup> Acts 1936 (Spec. Sess.); Burns, 1941 suppl., 52-1204; Baldwin, 1937 suppl., 14078-35.

<sup>502</sup> Acts 1936 (Spec. Sess.), 1941; Burns, 1941 suppl., 52-1203; Baldwin, 1941 suppl.,

14078-34.

not solicit alms while receiving assistance.<sup>503</sup> The amount he receives is determined by the county department after an investigation of his needs<sup>504</sup> and never exceeds \$40 a month<sup>505</sup> except as temporary assistance is given for treatment of his eyes.<sup>506</sup> Blind children may be sent to the school for the blind near Indianapolis.<sup>407</sup>

A dependent child must have lived in the State 1 year preceding his application for assistance or have been born within the State during the year, his mother having resided in the State 1 year before his birth.<sup>508</sup> The first dependent child may receive \$20, the second child \$18, and each additional child \$12 a month.<sup>509</sup> A destitute child (needy but not a public ward)<sup>510</sup> may receive as much as \$23 a month,<sup>511</sup> and is eligible for any other relief he may require.<sup>512</sup> Crippled children may be placed in any public or private hospital or be sent to the Riley Hospital at Indianapolis.<sup>513</sup> Diseased and defective children may be placed in a public hospital by the county department or the judge of the circuit court.<sup>519</sup> Orphan, dependent, and neglected children under 16 years of age are placed in private homes under the supervision of the county department of public welfare.<sup>515</sup>

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<sup>503</sup> Acts 1936 (Spec. Sess.), 1937; Burns, 1941 suppl., 52-1001, 52-1221; Baldwin, 1937 suppl., 14078-1, 14078-52.

<sup>504</sup> Acts 1936 (Spec. Sess.); Burns, 1941 suppl., 52-1225, 52-1227; Baldwin, 1937 suppl., 14078-56, 14078-58.

<sup>505</sup> Acts 1936 (Spec. Sess.), 1941; Burns, 1941 suppl., 52-1223; Baldwin, 1941 suppl., 14078-54.

<sup>506</sup> Acts 1936 (Spec. Sess.); Burns, 1941 suppl., 52-1236; Baldwin, 1937 suppl., 14078-67.

<sup>507</sup> Acts 1865; Burns 22-601 et seq.; Baldwin 4560 et seq.

<sup>508</sup> Acts 1936 (Spec. Sess.), 1937; Burns, 1941 suppl., 52-1240, 52-1268; Baldwin, 1937 suppl., 14078-71, 14078-97b.

<sup>509</sup> Acts 1936 (Spec. Sess.), 1941; Burns, 1941 suppl., 52-1241; Baldwin, 1941 suppl., 14078-72.

<sup>510</sup> Acts 1937; Burns, 1941 suppl., 52-1267; Baldwin, 1937 suppl., 14078-97a.

<sup>511</sup> Acts 1936 (Spec. Sess.), 1937; Burns, 1941 suppl., 52-1269; Baldwin, 1937 suppl., 14078-97c.

<sup>512</sup> Acts 1936 (Spec. Sess.), 1937; Burns, 1941 suppl., 52-1278; Baldwin, 1937 suppl., 14078-97L.

<sup>513</sup> Acts 1936 (Spec. Sess.), 1941; Burns, 1941 suppl., 52-1241; Baldwin, 1941 suppl., 14078-72. Acts 1936 (Spec. Sess.); Burns, 1941 suppl., 52-1256; Baldwin, 1937 suppl., 14078-87.

<sup>514</sup> Acts 1933; Burns 52-501; Baldwin 5700. Acts 1936 (Spec. Sess.), 1941; Burns 1941 suppl., 52-1241; Baldwin, 1941 suppl., 14078-72.

<sup>515</sup> Acts 1936 (Spec. Sess.), 1937; Burns, 1941 suppl., 52-1104 (c); Baldwin, 1937, 14078-5 (c.) Information obtained from Thurman A. Gottschalk, chief administrator of the State Department of Public Welfare, on December 11, 1939, by W. Davis Hamilton.

No official, in carrying out the provisions of the Welfare Act, may take charge of a child over the objection of a parent or a person standing *in loco parentis* to the child, except pursuant to a court order.<sup>516</sup> Persons receiving aid under the Welfare Act are ineligible for other public relief.<sup>517</sup> Assistance is not transferable, is not subject to legal process, and is not an asset in bankruptcy or insolvency proceedings.<sup>518</sup>

When a recipient of welfare assistance moves to another county in the State with the approval of the State Department, there is no suspension of his assistance. The county to which a blind person moves is responsible immediately for the payment of his assistance. In case of the removal of a child or aged person, the county from which he moves is responsible for 1 year and then the other county becomes responsible.<sup>519</sup>

If an aged or blind person entitled to assistance under the Welfare Act is unable to care for himself, the county department pays his relief money to some responsible person for his benefit.<sup>520</sup> If a blind or aged recipient of assistance dies leaving an estate insufficient to bury him, and the persons legally responsible for his burial are unable to pay the expense, the county department pays \$75 for his funeral, plus an additional \$25 for a burial lot (if the deceased did not own one.)<sup>521</sup>

An appeal may be taken from the county department to the State Department of Public Welfare.<sup>522</sup> Nothing in

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Validity of regulations as to bringing nonresident children into the State for care by resident families. Op. Atty. Gen. 1939, p. 264.

<sup>516</sup> Acts 1936 (Spec. Sess.); Burns, 1941 suppl., 52-1417; Baldwin, 1937 suppl., 14078-130.

<sup>517</sup> Acts 1936 (Spec. Sess.); Burns, 1941 suppl., 52-1202, 52-1222; Baldwin, 1937 suppl., 14078-33, 14078-53.

<sup>518</sup> Acts 1936 (Spec. Sess.); Burns, 1941 suppl., 52-1210, 52-1231; Baldwin, 1937 suppl., 14078-41, 14078-62.

<sup>519</sup> Acts 1936 (Spec. Sess.); Burns, 1941 suppl., 52-1218, 52-1239, 52-1248; Baldwin, 1937 suppl., 14078-49, 14078-70, 14078-79.

<sup>520</sup> Acts 1936 (Spec. Sess.); Burns, 1941 suppl., 52-1203, 52-1229; Baldwin, 1937 suppl., 14078-39, 14078-60.

<sup>521</sup> Acts 1936 (Spec. Sess.); Burns, 1941 suppl., 52-1209, 52-1230; Baldwin, 1937 suppl., 14078-40, 14078-61.

Burial of inmates of county infirmary. Op. Atty. Gen. 1939, p. 179.

<sup>522</sup> Acts 1936 (Spec. Sess.); Burns, 1941 suppl., 52-1211, 52-1232, 52-1246; Baldwin, 1937 suppl., 14078-42, 14078-63, 14078-77.



the Welfare Act relieves any person from liability for the support of a parent, child, or spouse.<sup>523</sup>

The county maintains an asylum for the poor, which is separate from the welfare department.<sup>524</sup> Pauper residents of the county may be placed therein by township trustees.<sup>525</sup> Nonresident paupers may be kept there temporarily.<sup>526</sup> The law provides that children between the ages of 3 and 17 shall not be kept in the asylum for a period longer than 60 days.<sup>527</sup>

Township poor relief is administered by each township trustee.<sup>528</sup> He may require able-bodied indigents receiving assistance to do needed governmental work.<sup>529</sup> Anyone refused relief by a township trustee has a right to a hearing before the board of commissioners<sup>530</sup> and to an appeal from that board to the circuit court.<sup>531</sup> The board of commissioners may borrow for township poor relief, if the funds available are not sufficient. The township funds are used for paying these loans.<sup>532</sup>

#### PUBLIC WORKS AND PROPERTY

The board of commissioners has power to make orders respecting the property of the county in conformity to law; to sell the public grounds of the county on which public buildings are situated, and to purchase in lieu thereof, in the name of the county, other grounds in the county seat on which such buildings shall be erected; to purchase other lands for the enlargement of the public square, and to take

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<sup>523</sup> Acts 1936 (Spec. Sess.); Burns, 1941 suppl., 52-1263; Baldwin, 1937 suppl., 14078-94.

Parent's duty to support child. *Huff v. Merchants Parcel Delivery Co.*, 106 Ind. App. 110, 18 N. E. (2d) 471 (1939).

<sup>524</sup> Const. 1851, art. 9, sec. 3. 1 Rev. Stat. 1852; Burns 52-201; Baldwin 13360. Acts 1935; Burns, 1941 suppl., 52-146; Baldwin, 1935 suppl., 13320-3.

<sup>525</sup> 1 Rev. Stat. 1852; Burns 52-201; Baldwin 13360. Acts 1935; Burns, 1941 suppl., 52-146, 52-151; Baldwin, 1935 suppl., 13320-3, 13320-8.

<sup>526</sup> Acts 1935; Burns, 1941 suppl., 52-163; Baldwin, 1935 suppl., 13320-20.

<sup>527</sup> Acts 1897, 1901; Burns 22-2608; Baldwin 4388

<sup>528</sup> Acts 1935, 1939; Burns, 1941 suppl., 52-144 to 52-182a; Baldwin, 1935 suppl., 13320-1 to 13320-38, 13359-11, 13359-12; Baldwin, 1939 suppl., 13320-4, 13320-13. Acts 1937; Burns, 1941 suppl., 52-183 to 52-194; Baldwin, 1937 suppl., 13321-1 to 13321-11, 13320-39. Op. Atty. Gen. 1940, p. 46.

<sup>529</sup> Acts 1935, 1941; Burns, 1941 suppl., 52-152; Baldwin, 1941 suppl., 13320-9.

<sup>530</sup> Acts 1935; Burns, 1941 suppl., 52-160; Baldwin, 1935 suppl., 13320-17.

<sup>531</sup> 1 Rev. Stat. 1852; Burns 26-901; Baldwin 5276.

<sup>532</sup> Acts 1935, 1939; Burns, 1941 suppl., 52-804, 52-609, 52-610; Baldwin, 1935 suppl., 13359-1, 13359-6; Baldwin, 1939 suppl., 13359-7.



care of and preserve such property; and to grant licenses, permits, or franchises with respect to the use of the property of the county.<sup>538</sup> No sale, conveyance, or purchase, by the board, of real estate of the value of \$1,000 or more can take place except pursuant to ordinance of the county council authorizing such sale or purchase and fixing the terms and conditions thereof.<sup>534</sup> The board cannot sell county property, real and personal, except at public auction after 60 days' notice by publication and posting.<sup>535</sup>

#### ROADS AND BRIDGES

The board of commissioners has power to construct and maintain roads<sup>536</sup> and bridges.<sup>537</sup> Generally the preliminary procedure for such construction is as follows: Taxpayers file with the board of commissioners a petition requesting the improvement; notice of hearing before the board is published; taxpayers opposing the petition file remonstrances; viewers appointed by the board make inspection and recommendations; damages to landowners are determined; the petition is finally approved; a contract for the work is let; and the damages are paid.<sup>538</sup> In some instances, bonds may be issued for the construction of roads<sup>539</sup> and bridges,<sup>540</sup> and special assessment liens charged against the land benefited by the road.<sup>541</sup>

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<sup>533</sup> 1 Rev. Stat. 1852, Acts 1935; Burns, 1941 suppl., 26-620; Baldwin, 1935 suppl., 5236.

<sup>534</sup> Acts 1889; Burns 26-534; Baldwin 5399.

<sup>535</sup> Acts 1907; Burns 26-2008; Baldwin 5107.

<sup>536</sup> Acts 1905, 1907; Burns 36-201 et seq.; Baldwin 8756 et seq. Acts 1919; Burns 36-301 et seq.; Baldwin 8859 et seq. Acts 1907; Burns 36-401 et seq.; Baldwin 8992 et seq. Acts 1919; Burns 36-501 et seq.; Baldwin 8879 et seq. Acts 1923; Burns 36-1001; Baldwin 9020. Acts 1905; Burns 36-1301 et seq. Baldwin 8787 et seq. Acts 1921; Burns 36-1401 et seq.; Baldwin 8904 et seq.

Budget estimates. *Bateman v. State*, 214 Ind. 138, 14 N. E. (2d) 1007 (1938).

<sup>537</sup> Acts 1905, 1907, 1929; Burns 36-1901; Baldwin 9236. Acts 1905, 1911, 1913; Burns 36-2001; Baldwin 9191. Acts 1903, 1923; Burns 26-2002; Baldwin 9192. Acts 1920; Burns 35-2401 et seq.; Baldwin 9151 et seq.

<sup>538</sup> See the citations in the two preceding footnotes.

<sup>539</sup> Acts 1905; Burns 36-1308; Baldwin 8794. Acts 1921; Burns 36-1435 to 36-1443; Baldwin 8938 to 8946. Acts 1937; Burns, 1941 suppl., 36-332; Baldwin, 1937 suppl., 8859-1.

<sup>540</sup> Acts 1920 (Spec. Sess.); Burns 36-2402; Baldwin 9152. Acts 1927; Burns 36-2421; Baldwin 9171. Acts 1929, 1937; Burns, 1941 suppl., 36-2432; Baldwin, 1937 suppl., 9182. Acts 1927; Burns 36-2441; Baldwin 9128.

<sup>541</sup> Acts 1905; Burns 36-1308; Baldwin 8794. Acts 1921; Burns 36-1412 to 36-1414; Baldwin 8915 to 8917.

State highways are those roads which have been officially designated as State highways by the State Highway Commission with the approval of the Governor. State highways and the bridges thereon are constructed, reconstructed, and maintained with State and Federal funds under the supervision of the State Highway Commission. Roads not so designated as State highways, and those so designated and thereafter abandoned by the State, are known as county roads. County roads and the bridges thereon are constructed, reconstructed, and maintained with county funds.<sup>542</sup> The county may render financial assistance to the State Highway Commission in the construction or maintenance of any State highway or bridge located wholly within the county, and any bridge (on such highway) over a stream forming the county boundary.<sup>543</sup> Expenses incurred in the maintenance of county roads may be paid only from funds received by the county from the motor vehicle highway account of the State, except that taxes may be levied for such purpose by the unanimous vote of the county council in case of extraordinary emergency or indispensable necessity.<sup>544</sup>

The county surveyor ordinarily prepares the plans and specifications for the construction of county roads and bridges, and has general supervision of such construction. If he is not a competent civil engineer, the board may appoint one to perform such duties.<sup>545</sup>

The county highway supervisor has general supervision

<sup>542</sup> Acts 1917, ch. 87, secs. 5, 6, 9, 12, 27, 31. Acts 1919, ch. 53, secs. 12, 16, 23, 31. Acts 1933, 1935; Burns, 1941 suppl., 36-107, 36-117, 36-127; Baldwin, 1935 suppl., 8647, 8656, 8665. Acts 1933; Burns 36-110, 36-125, 36-1102; Baldwin 8649, 8663, 8700. Acts 1932 (Spec. Sess.); Burns 36-905; Baldwin 8715. Acts 1937, 1939; Burns, 1941 suppl., 36-2804, 36-2806; Baldwin, 1939 suppl., 8695-4, 8695-6. Acts 1937; Burns, 1941 suppl., 36-2912, 36-2913, 36-2920, 36-2921; Baldwin, 1937 suppl., 8696-11, 8696-12, 8696-19, 8696-20. Acts 1939; Burns, 1941 suppl., 36-3013; Baldwin, 1939 suppl., 9175-13.

Township roads transferred to county road system. Acts 1932 (Spec. Sess.), 1933; Burns 36-901 to 36-904; Baldwin 8711 to 8714.

Law transferring township roads to county road system authorized the county to pay previous obligations of townships on such roads, but did not require much payment. Board of County Comrs. v. Farmers State Bank of Eaton, 104 Ind. App. 692, 10 N. E. (2d) 769 (1937).

Private road becoming a public road after public use for 20 years. Acts 1905; Burns 36-1807; Baldwin 8770. Switzer v. Armantrout, 106 Ind. App. 468, 19 N. E. (2d) 858 (1939).

<sup>543</sup> Acts 1923, 1929; Burns 36-126 to 36-141; Baldwin 8672 to 8675, 8678, 8679.

<sup>544</sup> Acts 1932 (Spec. Sess.), ch. 16, sec. 5. Acts 1937, ch. 135, secs. 3, 6. Acts 1939, ch. 61, sec. 1. Acts 1941, ch. 163, secs. 3, 4, 8. Acts 1932 (Spec. Sess.); Burns 36-905; Baldwin 8715.

<sup>545</sup> 1 Rev. Stat. 1852, Acts 1911; Burns 49-3209; Baldwin 5508.

of the maintenance and repair of all county roads, bridges, and culverts.<sup>546</sup> He makes maps of all county roads, and gives each road a name or number, so that the roads may be efficiently patrolled for making repairs.<sup>547</sup> Between January 1 and April 1 each year the highway supervisor is required to examine hedge fences and other obstructions of view near county roads, and to cause the trimming or removal of any such obstructions which violate the laws.<sup>548</sup> Weeds must be cut and removed from the right-of-way of county roads each year between June 15 and September 1.<sup>549</sup>

The board of commissioners has power to make suitable rules and regulations covering traffic on county roads, and to take steps necessary to enforce the rules. If such road is on a county line, the board of commissioners of the respective counties, in joint session, may make and enforce the rules.<sup>550</sup> The county surveyor or county highway supervisor may fix the limits of the loads for any road, bridge, or culvert maintained by the county.<sup>551</sup>

#### PUBLIC BUILDINGS

The law provides that the board of commissioners must cause a courthouse, jail, and public offices for the clerk, recorder, treasurer, and auditor to be erected and furnished, where this has not been done; and must keep all the public buildings of the county in repair; and that such offices must be fireproof, if practicable.<sup>552</sup>

For the purpose of acquiring a new courthouse, the board, without appraisalment and without authority from the county council, may sell to the State any lands of the county containing public buildings, and buy other land for courthouse grounds. The proceeds of sale can be used only for the purchase of the land and construction of the courthouse. Additional funds for such purpose may be raised by issuing bonds or notes.<sup>553</sup>

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<sup>546</sup> Acts 1933; Burns 36-1102, 36-1110; Baldwin 8700, 8708.

<sup>547</sup> Acts 1933; Burns 36-1109; Baldwin 8707.

<sup>548</sup> Acts 1891, 1921, 1933; Burns 30-301, 30-302; Baldwin 7647, 7648.

<sup>549</sup> Acts 1939; Burns, 1941 suppl., 36-714; Baldwin, 1939 suppl., 8619-1.

<sup>550</sup> Acts 1919; Burns 36-706; Baldwin 8899. Information obtained from T. A. Dicus, chairman of the State Highway Commission, on December 29, 1939, by W. Davis Hamilton.

<sup>551</sup> Acts 1933; Burns 36-1102, 36-1110; Baldwin 8700, 8708. Information obtained from T. A. Dicus, chairman of the State Highway Commission, on December 29, 1939, by W. Davis Hamilton.

<sup>552</sup> 1 Rev.Stat. 1852; Burns 26-624; Baldwin 5240.

<sup>553</sup> Acts 1917, 1920 (Spec. Sess.); Burns 26-2201 to 26-2210; Baldwin 5165 to 5174.

If the courthouse or jail is wholly or partly destroyed by fire or windstorm, it may be reconstructed or repaired by the board; bonds may be issued therefor; and a tax may be levied to retire the bonds.<sup>554</sup>

County buildings not needed by the courts or for county business may be leased to the city or town in which such buildings are located for a term not exceeding 10 years in any one lease,<sup>555</sup> or to private persons or corporations for a term not exceeding 5 years.<sup>556</sup>

The board may construct and maintain public halls, and provide a custodian, janitor, lights, and heat therefor; and may join with a city for such purpose, or sell such halls to a city or town.<sup>557</sup> The board may erect soldiers' monuments,<sup>558</sup> memorial buildings, auditoriums, and coliseums.<sup>559</sup> A township schoolhouse may be used for certain public meetings, with the consent of the township trustee.<sup>560</sup> A schoolhouse no longer used as such, because of the abandonment of the school or its consolidation with another school, may be reconstructed for use as a community house, on application of 51 percent of the resident freeholders of the school district.<sup>561</sup>

Contracts for construction of public buildings may be let by the board of commissioners in pursuance of appropriation by the county council,<sup>562</sup> after plans and specifications adopted by the board have remained in the auditor's office 30 days open to public inspection, notice inviting bids has been published, and bids, affidavits, and bonds have been received from bidders.<sup>563</sup>

#### DRAINAGE

Drainage districts and special assessment liens on the land in the benefited area, to pay for the drainage, may be

<sup>554</sup> Acts 1935; Burns, 1941 suppl., 26-2011; Baldwin, 1935 suppl., 5240-1.

<sup>555</sup> Acts 1909; Burns 26-1801 to 26-1804; Baldwin 5151 to 5154.

<sup>556</sup> Acts 1919; Burns 26-1805 to 26-1810; Baldwin 5155 to 5160.

<sup>557</sup> Acts 1903, 1913; Burns 16-1901 to 26-1906; Baldwin 5146 to 5150, 5164.

<sup>558</sup> Acts 1865, 1891; Burns 26-1701; Baldwin 5298.

<sup>559</sup> Acts 1913; Burns 26-1707; Baldwin 5132.

<sup>560</sup> Acts 1859; Burns 28-3307; Baldwin 6094. Acts 1913; Burns 28-3308 to 28-3311; Baldwin 6095 to 6098. Op. Atty. Gen. 1939, p. 172.

<sup>561</sup> Acts 1939; Burns, 1941 suppl., 28-3320; Baldwin, 1939 suppl., 6195-1.

<sup>562</sup> Acts 1899; Burns 26-525; Baldwin 5389.

<sup>563</sup> Acts 1899; Burns 26-537; Baldwin 5402. Acts 1907; Burns 26-2001 to 26-2005; Baldwin 5100 to 5104.



established by the circuit court on petition of landowners, after being referred to the county surveyor and viewers appointed by the court.<sup>564</sup> The petition will be dismissed if owners of two-thirds of the affected land remonstrate within 20 days.<sup>565</sup> If the original assessment is insufficient to complete the work, an additional assessment may be ordered after report of the surveyor, notice to the landowners, and hearing by the court.<sup>566</sup> After assessments are adjusted and confirmed, they are placed on the ditch duplicate and collected in the manner in which taxes are collected.<sup>567</sup>

The county surveyor has general supervision of the construction and maintenance of all ditches, drains, and levees. He makes all necessary surveys, maps, plans, and specifications when a court grants petitions for construction.<sup>568</sup> The law requires that open ditches be cleaned out and repaired biennially; that weeds, willows, and debris be removed therefrom annually; and that public tile drains be repaired whenever necessary.<sup>569</sup>

The board of commissioners may (by purchase, grants, donations, or eminent domain) acquire lands and rights necessary to obtain a right-of-way for drainage or easement for sewers, when necessary for the proper maintenance of any county buildings or institutions.<sup>570</sup>

#### OTHER PUBLIC PROPERTY

The board of commissioners may, without petition, purchase or otherwise acquire lands within the county for park

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<sup>564</sup> Acts 1933; Burns 27-104, 27-109, 27-116, 27-134; Baldwin 5740, 5745, 5752, 5770. Penn. v. Ducomb, 213 Ind. 133, 12 N.E. (2d) 116 (1938).

<sup>565</sup> Acts 1933; Burns 27-108; Baldwin 5744.

<sup>566</sup> Acts 1933; Burns 27-122; Baldwin 5753.

<sup>567</sup> Acts 1933; Burns 27-134; Baldwin 5770.

The circuit court has no power to collect these assessments as part of the proceedings for establishment of the drainage district. Penn. v. Ducomb, 213 Ind. 133, 12 N. E. (2d) 116 (1938).

Proceedings to collect drainage assessment liens cannot be commenced until 5 years after creation of lien. Marshall v. Watkins, 106 Ind. App. 235, 18 N. E. (2d) 954 (1939).

Effect of moratorium tax law. *Ibid.*

<sup>568</sup> Acts 1933; Burns 27-101, 27-201; Baldwin 5737, 5775. 1 Rev. Stat. 1852, Acts 1911; Burns 49-3309; Baldwin 5508.

<sup>569</sup> Acts 1941, ch. 63, secs. 1-3. Acts 1933, 1935, 1941; Burns, 1941 suppl., 27-203; Baldwin, 1941 suppl., 5777. Acts 1933, 1935; Burns, 1941 suppl., 27-210; Baldwin, 1935 suppl., 5784. Acts 1939; Burns, 1941 suppl., 27-233; Baldwin, 1939 suppl., 5494-9. Op. Atty. Gen. 1939, p. 292.

<sup>570</sup> Acts 1937; Burns, 1941 suppl., 26-640; Baldwin, 1937 suppl., 5236-1.



purposes and make the necessary improvements thereon.<sup>571</sup> If 200 persons, who are taxpayers and voters, petition the board to acquire land for park purposes, the board gives 60 days' notice by publication and conducts a public hearing on the question. If 20 percent of the resident taxpayers file remonstrances on or before the day fixed for hearing, the petition will be dismissed.<sup>572</sup> The board may acquire land to convey to the State for park purposes, on petition of 200 persons who are taxpayers and voters, after (a) publication of 30 days' notice, (b) public hearing, (c) consent of the Governor and the director of the State Department of Conservation, (d) fixing a tax levy, and (e) issuing bonds (if needed). The petition will be dismissed if 25 percent of the resident taxpayers file remonstrances before the date fixed for hearing.<sup>573</sup>

The board of commissioners may acquire, by purchase or gift, any lands within the county for the purpose of a permanent public forest.<sup>574</sup> Purchase for such purpose may be made on petition signed by 50 or more freeholders of the county, after publication of notice, a public hearing, and fixing a tax levy to pay for the same. Money may be raised by bond issue or temporary loan.<sup>575</sup> A gift of lands to the county on condition that they be maintained as a public forest can be accepted only by a majority of the board of commissioners and county council in joint session.<sup>576</sup> Any aggrieved taxpayer may appeal to the circuit court.<sup>577</sup>

Swamplands, saline lands, and meander lands, owned by the State, may be purchased by the county (acting through the board of commissioners) to be used for a public park or public forest, or both, on petition to the circuit court, appraisal of lands, and payment of value.<sup>578</sup>

The board may permit county lands within 1½ miles of a city or town to be used by such city or town for park purposes. Title to the land remains in the county.<sup>579</sup>

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<sup>571</sup> Acts 1923, 1927; Burns 26-1501; Baldwin 5199.

<sup>572</sup> Acts 1923; Burns 26-1503, 26-1504; Baldwin 5201, 5202.

<sup>573</sup> Acts 1927; Burns 26-1512 to 26-1516; Baldwin 5190 to 5194.

<sup>574</sup> Acts 1929; Burns 32-101; Baldwin 4875.

<sup>575</sup> Acts 1929, 1935; Burns, 1941 suppl., 32-102; Baldwin, 1935 suppl., 4876.

<sup>576</sup> Acts 1929; Burns 32-105; Baldwin 4879.

<sup>577</sup> Acts 1929, 1935; Burns, 1941 suppl., 32-109; Baldwin, 1935 suppl., 488-1.

<sup>578</sup> Acts 1929; Burns 62-217 to 62-225; Baldwin 15260 to 15268.

<sup>579</sup> Acts 1911; Burns 26-1526 to 26-1531; Baldwin 5181 to 5186.

The board, on petition of a majority of the voters in the county, may purchase land to be used for fairgrounds,<sup>580</sup> and thereafter sell such land or any part thereof, if it is no longer an eligible location for fairs.<sup>581</sup>

The county may, separately or in conjunction with another county or city, acquire, maintain, and dispose of airports and appurtenances thereto.<sup>582</sup>

Lands conveyed to the board of commissioners for the purpose of a public or private cemetery must be held by the board forever in trust for such purpose,<sup>583</sup> subject to the exceptions hereinafter stated. The board may convey any such public cemetery to any city or town within the vicinity thereof on application of such city or town,<sup>584</sup> and may convey any such public or private cemetery to a cemetery association on a petition of a majority of the persons, being residents of the county and heads of families, whose dead are buried in the cemetery.<sup>585</sup>

#### AGRICULTURE

The Constitution provides that improvement of agriculture shall be encouraged.<sup>586</sup> Allowances may be made out of the county's general fund to agricultural societies for the promotion of agricultural and horticultural interests.<sup>587</sup>

Fulton County has a county agricultural agent for the improvement of agriculture and rural life. The agricultural agent, under the supervision of Purdue University, cooperates with farmers' institutes, farmers' clubs, and other rural and civic organizations; conducts practical farm demonstrations, boys' club and contest work, and other movements for the advancement of agricultural and country life; gives advice to farmers on practical farm problems; and aids the superintendents of schools and the teachers of the county in giving practical education in agriculture and domestic science.<sup>588</sup>

<sup>580</sup> Acts 1873; Burns 26-1517, 26-1518; Baldwin 5330, 5331.

<sup>581</sup> Acts 1873; Burns 26-1519; Baldwin 5332.

<sup>582</sup> Acts 1920 (Spec. Sess.), 1921; Burns 14-301 to 14-306; Baldwin 4021, 7991, 4023 to 4026.

<sup>583</sup> 1 Rev. Stat. 1852; Burns 25-1521; Baldwin 10600.

<sup>584</sup> Acts 1905; Burns 48-6003; Baldwin 12665.

<sup>585</sup> Acts 1881 (Spec. Sess.); Burns 21-210, 21-211; Baldwin 4626, 4627.

<sup>586</sup> Const. 1851, art. 8, sec. 1.

<sup>587</sup> Acts 1877; Burns 15-314; Baldwin 5333.

<sup>588</sup> U. S. C. title, secs. 341 to 343, 344 to 348 (law of 1914). Acts 1913, 1923, 1927, 1937;

Burns, 1941 suppl., 28-4911; Baldwin, 1937 suppl., 6457. Acts 1931; Burns 28-5627; Baldwin 6475.

See the essays entitled "County Agricultural Agent."

## RECORDS SYSTEM

The records of Fulton County began with its creation in 1836. The establishment of each of the county offices and bureaus inaugurated their records which were kept in such fashion as the incumbents saw fit, following in the main the direction of the General Assembly under the provisions for each office.

In 1909 the Legislature established the State Board of Accounts, which formulates, prescribes, and installs systems of accounting and financial reporting which are uniform for every public office of the same class.<sup>589</sup> Under this law some of the records were combined to eliminate separation, duplication, and overlapping. The board also permits the use of bound loose-leaf records in almost all cases where the records are typed. The quality of the paper and ink and the binding and rebinding practices are left to the judgment of the board of commissioners, except that a good quality is required.<sup>590</sup>

An act of 1937 provides that the board of commissioners may provide for the installation of a modern tax-accounting system in the offices of the treasurer and auditor, after a description thereof has been approved by the board of commissioners and certified to, and approved by, the State Board of Accounts.<sup>591</sup> No system has been established in Fulton County under authority of this law.<sup>592</sup>

The State Board of Health,<sup>593</sup> State Board of Education,<sup>594</sup> State Probation Department,<sup>595</sup> State Department of Public Welfare,<sup>596</sup> Indiana Tax Board,<sup>597</sup> and the Agricultural Extension Department of Purdue University prescribe forms of records and reports for county boards and officials over whom they have supervision.<sup>598</sup>

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<sup>589</sup> Acts 1909; Burns 60-202, 60-224; Baldwin 13855, 13875.

<sup>590</sup> Information obtained from E. P. Brennan, State Examiner, on February 28, 1940, by W. Davis Hamilton.

<sup>591</sup> Acts 1937; Burns, 1941 suppl., 60-238 to 60-240; Baldwin, 1937 suppl., 15868-1 to 15868-3.

<sup>592</sup> Information obtained from E. P. Brennan, State Examiner, on January 21, 1940, by William E. Chambers.

<sup>593</sup> See the essay entitled "County Health Officer."

<sup>594</sup> See the essay entitled "County Superintendent of Schools."

<sup>595</sup> See the essay entitled "Probation Officer."

<sup>596</sup> See the essay entitled "County Department of Public Welfare."

<sup>567</sup> Acts 1919, 1921; Burns 64-1309; Baldwin 15713. Acts 1919; Burns 64-2803; Baldwin 15866.

<sup>598</sup> See the essay entitled "County Agricultural Agent."

Whenever it may be necessary for the preservation of the records of the circuit court or any county office, it is the duty of the board of commissioners to order the officer in charge of such records to copy and transcribe the same.<sup>599</sup>

In the event of the loss or destruction, in whole or in part, of any of the county records, they must be replaced as follows: (a) The board of commissioners must send to the Governor a certified list of such records furnished by the State, and he must order the proper State officer to replace them. (b) Records compiled in the county must be restored, if possible, from original documents by the county officer who had custody of the original records. (c) If impossible to duplicate the old records, new records must be made on evidence taken from parties having knowledge of the facts concerned, by the proper officer or by a commissioner appointed by the board of commissioners for that purpose.<sup>600</sup>

An act of 1925 permits county officials, at their discretion, to turn over to the Archives Division of the Indiana State Library, for permanent preservation, any official books, records, documents, original papers, newspaper files, or printed books and material not in current use in their offices.<sup>601</sup> County officials have only occasionally availed themselves of this provision for permanent preservation of their old records.

An act of 1927 provides that deeds, mortgages, and other instruments may be recorded by a photographic process adopted by the board of commissioners.<sup>602</sup> The photographic method of recording has never been used generally by any Fulton County officer.

In 1937 the General Assembly authorized the director of the State Library, at his discretion, to make a copy, by photography or in any other way, of any official book, record, document, original paper, newspaper, or printed book or material in any county, city, or other public office, for preservation in the State Archives. All public officials must permit such copies to be made.<sup>603</sup>

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<sup>599</sup> Acts 1877; Burns 26-634; Baldwin 5339.

<sup>600</sup> 2 Rev. Stat. 1852, Acts 1865; Burns 57-101 to 57-124; Baldwin 1168 to 1191. Acts 1881; Burns 57-208 to 57-210; Baldwin 1165 to 1167. Acts 1893; Burns 57-125, 57-211 to 57-214; Baldwin 1197, 1192 to 1195.

<sup>601</sup> Acts 1925, 1937; Burns, 1941 suppl., 63-830; Baldwin, 1937 suppl., 10287.

<sup>602</sup> Acts 1927; Burns 49-3207; Baldwin 14667.

<sup>603</sup> Acts 1925, 1937; Burns, 1941 suppl., 63-830; Baldwin, 1937 suppl., 10287.



In 1939 the Legislature created in each county a commission of public records, consisting of the judge of the circuit court, the president of the board of commissioners, the county auditor, and the clerk of the circuit court. The commission must classify county records on the following basis: (a) Public records no longer of official or historical value; (b) public records which are of current official value and should be retained in the office where they are required to be filed; (c) public records of official value but which are consulted and used so infrequently that they are no longer of appreciable value to the officer with whom they are required to be filed; and (d) public records having historical value but no apparent official value. Records of class (a), which occupy space to no purpose in the offices and storerooms of the county, must, 3 years from the time they were originally filed (unless a law requires that they be kept for a longer period of time), be destroyed or otherwise disposed of, unless a law prohibits their destruction and unless such records are then in frequent use by the officer having charge of the office in which they are located. Records of class (b) will be retained in the office in which they were required to be filed. Records of classes (c) and (d) must be transferred to the State Library 3 years after the date of the filing of such records, unless they are then in frequent use by the officer in charge of the office where they are located. In the event of such transfer, the records of class (c) will be added to the "archives" of the Library while those of class (d) will constitute a part of the "collection" of such Library.<sup>604</sup>

An act of 1935 created, in the executive department of the State, a "Commission on Public Records," consisting of the Governor, Secretary of State, State Examiner, director of the State Library, and director of the Historical Bureau. This act is almost identical with the act of 1939 creating a "commission of public records" in each county, except as to the provisions concerning the personnel of the commission.<sup>605</sup>

It is provided by law that whoever, being an officer or his deputy, having the custody of any record, book, document, paper, or proceeding pertaining to or filed with any court of record or county office or officer, feloniously steals or

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<sup>604</sup> Acts 1939; Burns, 1941 suppl., 49-3701, to 49-3710; Baldwin, 1939 suppl., 5492-1 to 5492-

10. See the essay entitled "Commission of Public Records."

<sup>605</sup> Acts 1935; Burns, 1941 suppl., 63-1901 to 63-1910; Baldwin, 1935 suppl., 15400-1 to 15400-

10. Op. Atty. Gen. 1939, p. 259.



fraudulently takes away, secretes, withdraws, or destroys the same shall on conviction be imprisoned in the State Prison not less than 2 years nor more than 14 years, fined not exceeding \$1,000, and disfranchised and rendered incapable of holding any office of trust or profit for any determinate period;<sup>606</sup> that whoever maliciously, mischievously, or fraudulently alters, defaces, injures, mutilates, or destroys the whole or any part of such record or document shall on conviction be imprisoned in the State Prison not less than 6 months nor more than 14 years, fined not exceeding \$1,000, and disfranchised and rendered incapable of holding any office of trust or profit for any determinate period;<sup>607</sup> that any public official or person who destroys any public record without specific written authority from the commission of public records shall on conviction be fined not less than \$10 nor more than \$500;<sup>608</sup> and that any county recorder who violates the law requiring immediate entry of certain satisfactions, cancelations, and assignments in his entry book shall be subject to a penalty of \$5 for each such violation, to be recovered in a civil action brought by the prosecuting attorney.<sup>609</sup>

### 3. HOUSING, CARE, AND ACCESSIBILITY OF THE RECORDS

The first courthouse constructed in Fulton County was authorized by the board of commissioners meeting in Rochester, May 1, 1837.<sup>1</sup> The contract for the building, a two-story frame structure 24' by 20', was awarded to Ebenezer Ward on his bid of \$600,<sup>2</sup> and was completed in November of the same year.<sup>3</sup> This building was used until 1848, when the second courthouse was finished.

The second courthouse, a two-story brick structure 44' by 60', with a stone foundation and shingle roof, was begun in 1846 and completed two years later at a cost of \$6,000.<sup>4</sup>

<sup>606</sup> Acts 1905; Burns 10-3004, 10-3005; Baldwin 2459, 2460.

<sup>607</sup> Acts 1905; Burns 10-4514; Baldwin 2461.

<sup>608</sup> Acts 1939; Burns, 1941 suppl., 49-3708, 49-3710; Baldwin, 1939 suppl., 5492-8, 5492-10.

<sup>609</sup> Acts 1905; Burns 49-3203, 49-3204; Baldwin 5472, 5473.

<sup>1</sup> Commissioners' Record, vol. A, p. 38, *see* entry 2.

<sup>2</sup> *Ibid.*, p. 39.

<sup>3</sup> *Ibid.*, p. 74.

<sup>4</sup> *Ibid.*, vol. B, p. 23.

Henry Kent was the contractor.<sup>5</sup> All of the first floor was used for the various county offices and the second floor for court purposes.<sup>6</sup> By 1893 the county business had grown to such an extent that additional office and storage space had to be rented until completion of the present courthouse in 1895.

The present courthouse, constructed of Bedford limestone, is a three-story structure 108' by 99' with a clock tower extending above the third floor to a height of 85'. All of the walls and ceilings of the various offices are plastered and the floors are of wood. The auditor's, recorder's, clerk's, and treasurer's offices each have fireproof vaults. Although the building is nearly 50 years old it shows little wear, and is an imposing structure on the grassy public square in the center of Rochester.

On November 7, 1836 Joseph Robbins was awarded a contract for the construction of the first jail in Fulron County.<sup>7</sup> The structure was a two-story building constructed of logs a foot square and 12 feet long, fastened together with wooden pegs.<sup>8</sup> Apparently this building was poorly constructed and not built according to specification; for the board of commissioners voted to allow Robbins only \$500,<sup>9</sup> which he accepted in August 1837.<sup>10</sup>

The second jail was a two-story brick structure, built in 1851 by Elizah Barnes at a cost of \$2,500.<sup>11</sup> No other records concerning this building are to be found.

The present jail and sheriff's residence, located at the corner of Madison and Eighth Streets, was constructed in 1893 by the Champion Iron Company of Kenton, Ohio. The building cost \$19,935. The exterior of the building, which is 82' long and 51' wide, is constructed of brick and the interior of iron and steel. Several alterations have been made on the interior since the original construction.

A room-by-room description of the present housing of county records follows:

*Board of Commissioners.* Forty-two percent of the commissioners records are in the auditor's vault, 36 percent are in the

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<sup>5</sup> *Ibid.*, p. 23.

<sup>6</sup> *Ibid.*, p. 24.

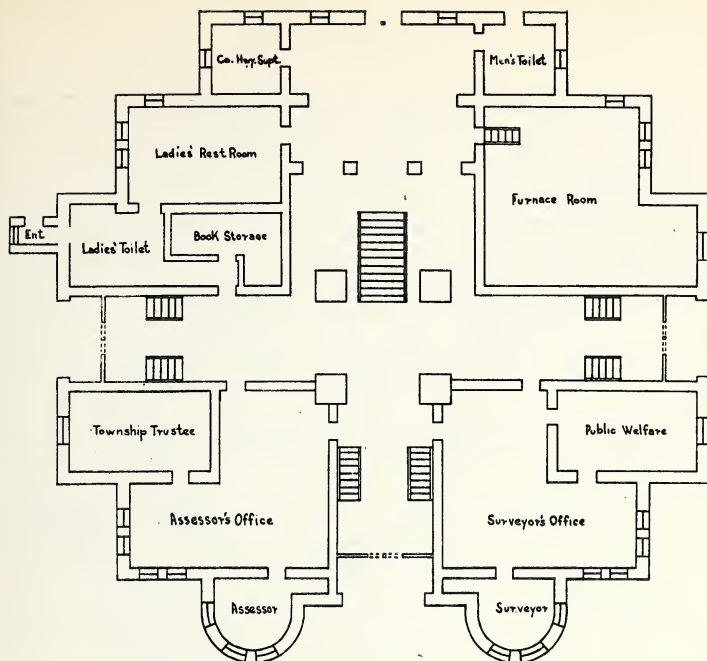
<sup>7</sup> *Ibid.*, vol. A, p. 20.

<sup>8</sup> *Ibid.*, p. 24.

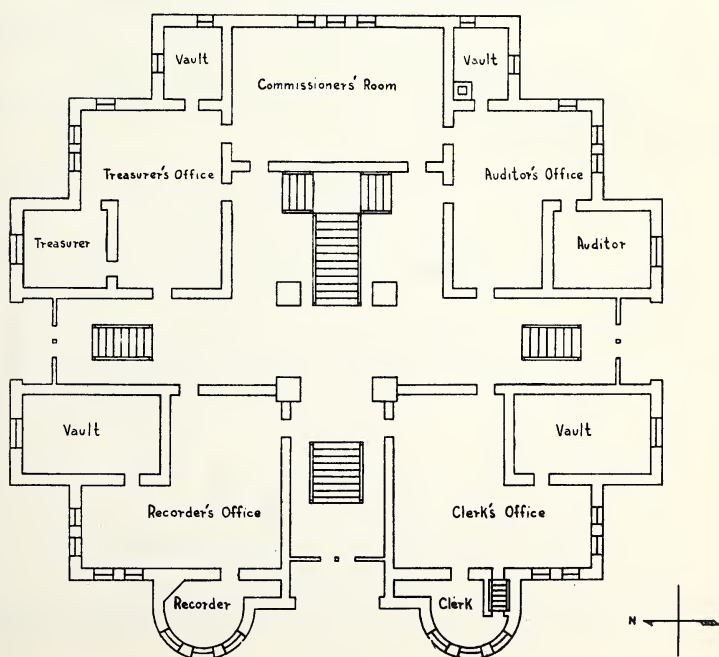
<sup>9</sup> *Ibid.*, p. 53.

<sup>10</sup> *Ibid.*, p. 70.

<sup>11</sup> *Ibid.*, vol. C, p. 25.



BASEMENT, FULTON COUNTY COURTHOUSE



FIRST FLOOR, FULTON COUNTY COURTHOUSE

basement storage room, 12 percent are in the attic storage room, and 10 percent are in the auditor's office.

*County Council.* All of the county council's records are in the auditor's office.

*Clerk of the Circuit Court.* Forty percent of the clerk's records are in the clerk's vault, 40 percent are in the attic storage room, and 20 percent are in the clerk's office. Other records located in the clerk's office are 1 percent of the circuit court records, and 14 percent of the registration officer's records. In the clerk's vault are 75 percent of the circuit court records, 31 percent of the sheriff's records, 66 percent of the election commissioners, and 86 percent of the health officer's records.

*Recorder.* Eighty-five percent of the recorder's records are in the recorder's vault, 13 percent are in the attic storage room, and 2 percent are in the recorder's office.

*Circuit Court.* Seventy-five percent of the circuit court records are in the clerk's vault, 24 percent are in the attic storage room, and 1 percent in the clerk's office.

*Sheriff.* Fifty percent of the sheriff's records are in his office, 31 percent are in the clerk's vault, and 19 percent are in the attic storage room.

*County Assessor.* Seventy-four percent of the assessor's records are in the assessor's office, and 26 percent are in the attic storage room.

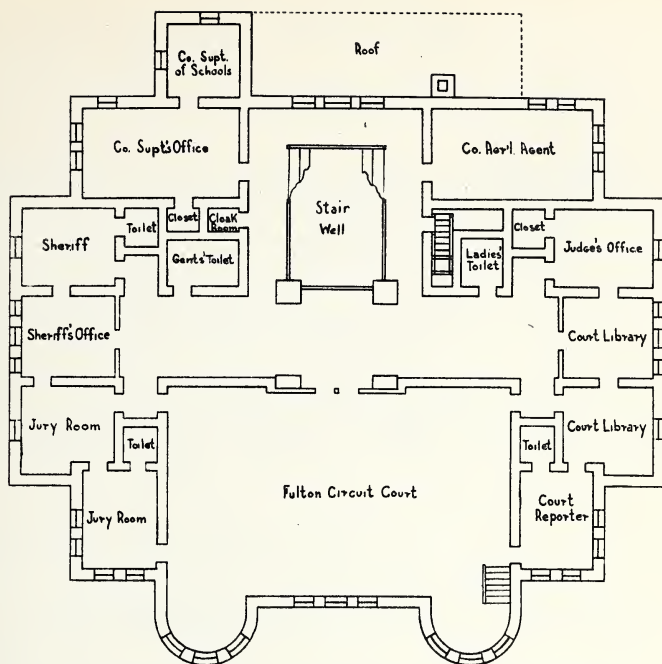
*County Board of Review.* All records of the board of review are in the auditor's office.

*County Board of Tax Adjustment.* All records of the board of tax adjustment are in the auditor's office.

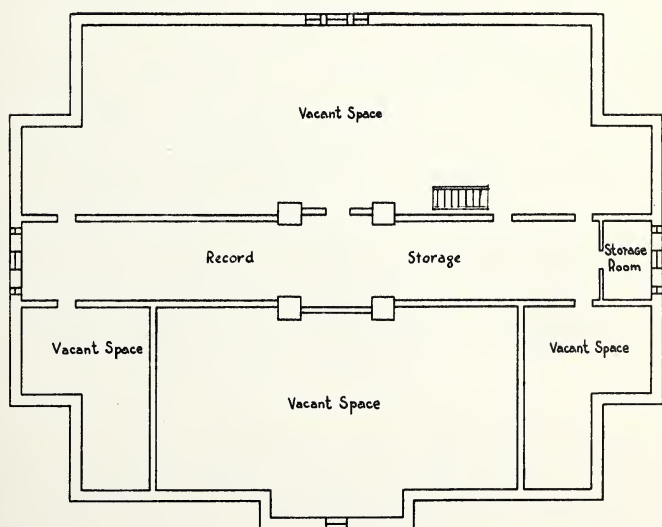
*Board of Finance.* Sixty-seven percent of the board of finance records are in the auditor's vault, and 33 percent are in the attic storage room.

*Treasurer.* Sixty-two percent of the treasurer's records are in the basement storage room, approximately 22 percent are in the attic storage room, 15 percent are in the treasurer's vault, 1 percent in the treasurer's office, and 1 bundle in the auditor's office.

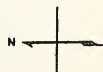
*Auditor.* Sixty-one percent of the auditor's records are in the attic storage room, 26 percent are in the assessor's office, 5 percent are in the basements storage room, 5 percent are in the auditor's vault, and 3 percent are in the auditor's office. Other records located in the auditor's office are 10 percent of the board of commissioners' records and 1 bundle



SECOND FLOOR, FULTON COUNTY COURTHOUSE



ATTIC STORAGE ROOM, FULTON COUNTY COURTHOUSE





of the treasurer's records, all records of the board of review, board of tax adjustment, and county council. Sixty-seven percent of the board of finance records are in the auditor's vault.

*Registration Officer.* Eighty-six percent of the registration officer's records are in the attic storage room, and 14 percent are in the clerk's office.

*Board of Primary Election Commissioners, County Board of Canvassers, County Board of Election Commissioners.* Thirty-four percent of the records are in the attic storage room, and 66 percent are in the clerk's vault.

*County Board of Education.* All records are in the county superintendent of school's office.

*County Superintendent of Schools.* All records of the superintendent's are in his office.

*County Health Officer.* Eighty-six percent of the health officer's records are in the clerk's vault, and 14 percent are in the health officer's office.

*County Department of Public Welfare.* All records of the department of public welfare are in the welfare office.

*Surveyor.* All records of the surveyor are in the surveyor's office, except 1 file box which is in the attic storage room.

*County Highway Supervisor.* Seventy-eight percent of the supervisor's records are in the highway supervisor's office, and 22 percent are in the attic storage room.

*County Agricultural Agent.* All records are in the agricultural agent's office.

*Attic Storage Room.* Housed in the attic storage room are 12 percent of the board of commissioners' records, 40 percent of the clerk's records, 18 percent of the recorder's records, 24 percent of the circuit court records, 19 percent of the sheriff's records, 26 percent of the assessor's records, 33 percent of the board of finance records, 22 percent of the treasurer's records, 61 percent of the auditor's records, 86 percent of the registration officer's records, 34 percent of the election commissioner's records, 1 file box of the surveyor's records, and 22 percent of the county highway supervisor's records.

*Basement Storage Room.* Located in the basement storage room are 36 percent of the commissioners' records, 62 percent of the treasurer's records, and 5 percent of the auditor's records.

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## 5. ABBREVIATIONS, SYMBOLS, AND EXPLANATORY NOTES

The style manual of the United States Government Printing Office is the authority followed herein.

|      |  |
|------|--|
| Acts | Session laws of the Indiana General Assembly |
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|                |   |
|----------------|---|
| agr. agt.      | agricultural agent('s)  |
| alph.          | alphabetical(ly)  |
| approx.        | approximate(ly)   |
| arr.           | arranged  |
| art.           | article   |
| assr.          | assessor('s)  |
| aud.           | auditor('s)   |
| bd.            | board   |
| bdl.(s)        | bundle(s)   |
| Blackf.        | <i>Blackford's Reports</i> (early decisions of the<br>Indiana Supreme Court)  |
| bldg.          | building  |
| bsmt.          | basement  |
| c.             | copyright (before date)   |
| c. c.          | county courthouse   |
| cf.            | compare   |
| ch.            | chapter   |
| chron.         | chronological(ly)   |
| cir.ct.        | circuit court   |
| clk.           | clerk('s)   |
| comp.(s)       | compiler(s)   |
| comr.          | commissioner(s)   |
| Const.         | Constitution of Indiana   |
| cor.           | coroner   |
| ct.rept.       | court reporter  |
| diam.          | diameter  |
| ed.(s)         | editor(s)   |
| <i>et al.</i>  | <i>et alii</i> (and others)   |
| <i>et seq.</i> | <i>et sequentia</i> (and following)   |
| ex rel.        | <i>ex relatione</i> - upon relation of. (Designates<br>the person at whose instance the State<br>or a public officer is acting)   |
| f. b.          | file box(es)  |
| f. d.          | file drawer(s)  |
| fl.            | floor   |
| hdw.           | handwritten   |
| hlth. offr.    | health officer('s)  |
| hwy. sup.      | highway supervisor('s)  |
| <i>Ibid.</i>   | <i>ibidem</i> (in the same place)   |
| Ind.           | Indiana (when preceded by the volume<br>number, reference is to official reports<br>of decisions of the Indiana Supreme<br>Court) |
| Ind. App.      | official reports of decisions of Indiana<br>Appellate Court   |
| insp.          | inspector   |

# ABBREVIATIONS, SYMBOLS, AND EXPLANATORY NOTES 123

|                  |  |
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| juv.             | juvenile   |
| L. Ed.           | decisions of U. S. Supreme Court published<br>by Lawyers Co-operative Publishing Co.                                 |
| lb.(s)           | pound (s)  |
| <i>Loc. cit.</i> | <i>loco citato</i> (in the place cited)  |
| n.               | note   |
| n. d.            | no date  |
| N. E.            | <i>North Eastern Reporter</i>  |
| N. E. (2d)       | <i>North Eastern Reporter</i> , second series  |
| no.(s)           | number(s)  |
| numer.           | numerically  |
| off.             | office   |
| offr.            | officer  |
| Op. Atty. Gen.   | opinions of the Attorney General of Indiana  |
| <i>op. cit.</i>  | <i>opere citato</i> (in the work cited). (After au-<br>thor's name, refers to previous work<br>cited under his name) |
| p., pp.          | page(s)  |
| <i>passim</i>    | here and there (referring to references too<br>numerous to enumerate)  |
| <i>pro tem</i>   | <i>pro tempore</i>   |
| pros. atty.      | prosecuting attorney('s)   |
| pt.              | part   |
| ptd.             | printed  |
| pub. welf.       | public welfare   |
| pvt.             | private  |
| rec.             | record   |
| recr.            | recorder('s)   |
| reg.             | register   |
| Rev. L.          | <i>Revised Laws of the State of Indiana</i>  |
| Rev. Stat.       | <i>Revised Statutes of the State of Indiana</i>  |
| sec.(s)          | section(s)   |
| sher.            | sheriff('s)  |
| <i>sic</i>       | thus (indicating expression, misspelling,<br>etc., is the same as in the original)                                   |
| (Spec. Sess.)    | Special Session  |
| sta.             | station  |
| strg.            | storage  |
| sub-bsmt.        | sub-basement   |
| suppl.           | supplement   |
| Sup. Ct.         | decisions of U. S. Supreme Court published<br>by West Publishing Co.   |
| super. ct.       | superior court   |
| supt.            | superintendent('s)   |

|             |   |
|-------------|---|
| surv.       | surveyor('s)  |
| treas.      | treasurer('s)   |
| t. (tps.)   | township(s)   |
| U. S.       | United States (when preceded by volume number, reference is to official reports of U. S. Supreme Court) |
| U. S. C.    | <i>United States Code</i>   |
| U. S. Stat. | <i>U. S. Statutes At Large</i>  |
| v.          | versus  |
| vol.(s)     | volume(s)   |
| vt.         | vault   |
| Yr. Bk.     | <i>Year Book of the State of Indiana</i>  |
| '           | foot, feet  |
| "           | inch(es) (omitted after dimensions in entries)  |
| x           | by (in dimensions)  |
| -           | to date and continuing  |

## EXPLANATORY NOTES

The inventory of the records of each branch of the county government is preceded by an essay explaining its legal status and functions.

In some instances, records shown as being legally required do not appear in the inventory. Such omissions reflect the record situation and are not the result of an inadequate survey.

Entries are grouped according to a functional classification, with headings and subheadings according to relative functions and with cross-references to allied subjects. Every entry has two parts or paragraphs: Title and description. Occasionally an entry has a third (cross-reference) paragraph.

I. The title paragraph consists of:

*Entry Number.* The entries are numbered consecutively.

*Exact title* (in capitals and small capitals) as it appears on the records. Titles enclosed in brackets are supplied by the Indiana Historical Records Survey, if the volume or file bears no title. Supplementary titles (in capitals and lower-case letters), enclosed in brackets, are also supplied where it is necessary to explain the types of records more fully, or where the exact title borne by the record is incorrect, misleading, or non-descriptive.

*Dates* the period covered by the record, showing inclusive beginning and ending date, except when a dash in place of an

ending date denotes an open record. Missing records are indicated by a break in the dates. In entries, where one or more records are replaced by another record, the month and day are given for the discontinued record. In entries of open records, when the last entry is not current, a note follows: "Last entry"- with date following. Where no statement is made that the record was discontinued at the last date shown in the entry, it could not be definitely established that such was the case. Where no comment is made on the absence of prior or subsequent records, no definite information could be obtained.

*Quantity and labeling*, given in chronological order wherever possible.

*Variations in title*. Current or most recent title used as entry title; if former titles vary, they are shown.

*Changes in keeping records*. Occasionally the county record is discontinued or is kept by some other authority-State or other county office; if changes in keeping records have been made, such changes are indicated and information is given to show by what authority the record is now kept.

## II. The description consists of:

A statement of the nature, contents, and purpose of the record, with a summary of the column headings or subjects treated. The current record, except as otherwise noted, is described. The contents over a long period of years may themselves vary; therefore, over the entire period the description may vary to some degree. In the description of map and plat records, the scale and the names of author and publisher are given whenever available. No mention thereof denotes that these data are not known.

*Method of arrangement*: Chronological, topical, or other system.

*Method of indexing*, pertaining to self-contained indexes. Separate indexes are noted also, with a cross-reference thereto.

*Nature of recording*: Records are shown as handwritten, typewritten, or printed; maps and plats are shown as drawn, blueprinted, or printed.

*Condition*. Omitted if good or excellent.

*Number of pages* averaged for a series.

*Size of volumes* in the order of height, width, and thickness, averaged for a series; of file boxes and file drawers, in the order of height, width, and depth. It is given in inches in all instances; hence the inch sign is omitted.



*Location.* The place of custody (the room in which the records are located) is in the courthouse unless another building is specified in the entry. The locations given are those effective at the time the survey was made.

### III. Cross-references:

Title-line cross-references are used to show continuity of a record series which has been kept separately for a period and with other records for different periods of time. An example is that in the title-line of entry 140: "Dec. 12, 1883 in Estate, Entry, and Allowance Docket, entry 139." They are also used in all artificial entries, those set up to cover records which must be shown separately under their proper office even though they are kept in files or records appearing elsewhere in the inventory, as, for example, the title-line cross-reference in entry 315: "In Election Record, entry 317." In both instances the description of the master entry or entry of miscellaneous contents shows the title and number of the entry in which the record is described (the entry from which the title-line cross-reference is made), as, for example, in entry 139: "Also contains: Appearance Docket, Dec. 12, 1883-, entry 140." Dates shown in such a cross-reference are only for the part or parts of the record contained therein, and are shown only when they vary from those of the master entry.

Separate third-paragraph cross-references from entry to entry, and *See also* references with subject headings or sub headings are used to guide the reader to prior, subsequent, or related records which are not parts of the same series.

In the footnotes of essays the chapter and section numbers of the *Laws of the State of Indiana* (cited as Acts) are omitted when parallel Burns and Baldwin section numbers are cited; only the year of the law cited is given, as, for example, "Acts 1919; Burns 36-706; Baldwin 8899." The history lines contained in the Burns and Baldwin books give the full citations. This method has been found necessary to prevent the footnotes from becoming unwieldy and occupying too much space on each page of the multigraphed volume.

## PART B. COUNTY OFFICES AND THEIR RECORDS

### 1. BOARD OF COMMISSIONERS

#### EVOLUTION AND STRUCTURAL ORGANIZATION

The board of commissioners, which has existed in Fulton County ever since 1836, is composed of three members<sup>1</sup> elected for 3-year terms commencing on January 1 in different years.<sup>2</sup> The county is divided into three districts; and one commissioner is elected from the residents of each district by the voters of the whole county.<sup>3</sup> Each member receives a certificate of election from the clerk of the circuit court<sup>4</sup> and remains in office until his successor has been elected and qualified.<sup>5</sup>

Each commissioner must be an elector of the county at the time of his election; must have been an inhabitant thereof throughout the preceding year;<sup>6</sup> must reside within the county after his election; must not hold any other lucrative office;<sup>7</sup> and must take an oath to support the State and Federal Constitutions and faithfully discharge his duties.<sup>8</sup> Each

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<sup>1</sup> 1 Rev. Stat. 1852, Acts 1929; Burns 26-601; Baldwin 5215. See footnote 22 herein.

County commissioners are not constitutional officers. State ex rel. Workman v. Goldthait, 172 Ind. 210, 87 N. E. 133 (1909).

<sup>2</sup> Rev. L. 1831, ch. 20, sec. 2. Rev. Stat. 1838, ch. 21, sec. 2. Rev. Stat. 1843, ch. 4, sec. 11. Acts 1901, ch. 182, sec. 1 (repealed by Acts 1929, ch. 59, sec. 2). 1 Rev. Stat. 1852; Burns 26-603; Baldwin 5217. Acts 1885; Burns 26-604; Baldwin 5218. Acts 1929; Burns 49-207; Baldwin 5566.

<sup>3</sup> Rev. L. 1831, ch. 20, sec. 11. Rev. Stat. 1838, ch. 21, sec. 11. Rev. Stat. 1843, ch. 7, sec. 13. 1 Rev. Stat. 1852; Burns 26-602; Baldwin 5216.

<sup>4</sup> Const. 1851, art. 15, sec. 6. Rev. L. 1824, ch. 16, sec. 3. Rev. Stat. 1843, ch. 7, sec. 2. 1 Rev. Stat. 1852, ch. 31, sec. 38. 1 Rev. Stat. 1852; Burns 49-201, 49-202; Baldwin 13095, 13096.

The members are not commissioned by the Governor. *Ibid.*

<sup>5</sup> Const. 1851, art. 15, sec. 3. Rev. L. 1831, ch. 20, sec. 2. Rev. Stat. 1838, ch. 21, sec. 2. Rev. Stat. 1843, ch. 4, sec. 11. 1 Rev. Stat. 1852, ch. 20, sec. 3. Acts 1885; Burns 26-604; Baldwin 5218.

<sup>6</sup> Const. 1816, art. 11, sec. 14. Const. 1851, art. 6, sec. 4.

<sup>7</sup> Const. 1846, art. 11, secs. 6, 13. Const. 1851, art. 2, sec. 9; art. 6, sec. 6.

<sup>8</sup> Const. 1851, art. 15, sec. 4. Rev. L. 1831, ch. 20, sec. 3. Rev. Stat. 1838, ch. 21, sec. 3. Rev. Stat. 1843, ch. 7, sec. 2. Acts 1905; Burns 10-3708; Baldwin 2660. 1 Rev. Stat. 1852; Burns 26-605, 49-101; Baldwin 5219, 13054.

member receives a regular salary of \$300 per year,<sup>9</sup> plus 6 cents for each mile necessarily traveled by him in the conduct of county business.<sup>10</sup>

For sufficient legal causes any county commissioner may be removed from office by the circuit court, after trial by jury on an accusation presented by the grand jury or verified by the oath of any person.<sup>11</sup> If a commissioner is convicted of a felony the judgment of conviction must declare his office vacant.<sup>12</sup>

Any vacancy in the office of county commissioner is filled at any time through appointment by the commissioners in office. In the event of a tie vote the auditor casts the deciding vote.<sup>13</sup>

The board of commissioners is a body corporate and politic by the name and style of "The Board of Commissioners of the County of Fulton." As such, and in such name, the board may sue and be sued. It possesses duties, rights, and powers incident to corporations.<sup>14</sup> In legal contemplation the board is the county.<sup>15</sup>

A regular session of the board of commissioners begins on the first Monday of each month and continues so long as the necessary business of the session requires.<sup>16</sup> Special sessions are held when called by the auditor, the clerk of the circuit court (in case of the death or disqualification of the auditor), or the recorder (in case of the death or disqualification of the auditor and clerk of the circuit

<sup>9</sup> Acts 1889, ch. 88, sec. 1. Acts 1899, ch. 241, sec. 1. Acts 1911, ch. 84, sec. 1. Acts 1933; Burns 49-1004; Baldwin 7534.

<sup>10</sup> Acts 1933; Burns 49-1013; Baldwin 7543.

<sup>11</sup> Const. 1851, art. 2, secs. 6, 7; art. 6, sec. 8. Acts 1897, 1899; Burns 49-821 to 49-834, 49-836; Baldwin 13154 to 13166, 13050, 13168. Acts 1875; Burns 49-837; Baldwin 13052. Bateman v. State. 214 Ind. 138, 14 N. E. (2d) 1007 (1938).

<sup>12</sup> Acts 1897, 1899; Burns 49-834; Baldwin 13050.

<sup>13</sup> 1 Rev. Stat. 1852, Acts 1929; Burns 26-601; Baldwin 5215. Op. Atty. Gen. 1935, p. 7.

<sup>14</sup> Rev. L. 1831, ch. 20, sec. 4. Rev. Stat. 1838, ch. 21, sec. 4. Rev. Stat. 1843, ch. 7, sec. 3. 1 Rev. Stat. 1852; Burns 26-605; Baldwin 5220.

Suit against canal company. Acts 1851-52; Burns 36-2302 to 36-2304; Baldwin 9254 to 9256.

Suits concerning county seat donations. 1 Rev. Stat. 1852; Burns 26-801; Baldwin 5251.

<sup>15</sup> Dice v. County Board of Finance, 99 Ind. App. 405, 192 N. E. 770 (1934).

<sup>16</sup> Rev. L. 1831, ch. 20, sec. 5, Rev. Stat. 1838, ch. 21, sec. 5. Rev. Stat. 1843, ch. 7, sec. 4. 1 Rev. Stat. 1852, ch. 20, sec. 6. Acts 1859, ch. 21. Acts 1863, ch. 28. Acts 1897, ch. 123, sec. 1. Acts 1899; Burns 26-550; Baldwin 5221.

court).<sup>17</sup> Any two members constitute a quorum to do business. When only two members are present and a division takes place on any question, such question must be continued until the next meeting of the board.<sup>18</sup> The sheriff, in person or by deputy, attends the meetings of the board and executes its orders.<sup>19</sup> All meetings of the board are open to the public.<sup>20</sup> An official seal must be kept and used by the board.<sup>21</sup>

From the organization of Fulton County in 1836, the general administrative control of county matters has been vested in a board of commissioners similar to the present board, except that since 1899 many powers previously exercised by the board of commissioners have been vested in the county council.<sup>22</sup>

#### FUNCTIONS AND RECORDS

The board of commissioners may purchase and sell property for the county (consent of county council is required when value is \$1,000 or more);<sup>23</sup> has control of the county property; may grant licenses, permits, and franchises with respect to county property;<sup>24</sup> has charge of the purchase of materials

<sup>17</sup> Acts 1844-45 (general), ch. 66. Acts 1863; Burns 26-607 to 26-609; Baldwin 5222, 5224, 5225. Acts 1899; Burns 26-610; Baldwin 5223.

<sup>18</sup> Rev. L. 1831, ch. 20, sec. 8. Rev. Stat. 1838, ch. 21, sec. 8. Rev. Stat. 1843, ch. 7, secs. 1, 6. 1 Rev. Stat. 1852; Acts 1929; Burns 26-601, 26-618; Baldwin 5215, 5227.

<sup>19</sup> Rev. L. 1831, ch. 20, sec. 6. Rev. Stat. 1843, ch. 7, secs. 5, 25. 1 Rev. Stat. 1852; Burns 26-611; Baldwin 5226.

<sup>20</sup> Rev. Stat. 1843, ch. 7, sec. 18. 1 Rev. Stat. 1852; Burns 26-623; Baldwin 5239.

<sup>21</sup> Rev. L. 1831, ch. 20, sec. 10. Rev. Stat. 1838, ch. 21, sec. 10. Rev. Stat. 1843, ch. 7, sec. 9. 1 Rev. Stat. 1852; Burns 26-622; Baldwin 5232.

<sup>22</sup> Rev. L. 1831, ch. 20. Rev. Stat. 1838, ch. 21. Rev. Stat. 1843, ch. 7, secs. 1-43. 1 Rev. Stat. 1852, ch. 6, sec. 1; ch. 20. Acts 1899, ch. 154. See the essay entitled "County Council."

Fulton Organization Acts. Acts 1834-35 (general), ch. 25, sec. 8. Acts 1835-36 (general), ch. 16, sec. 1.

<sup>23</sup> Acts 1838-39 (general), ch. 32. Rev. Stat. 1843, ch. 19, secs. 34, 42. Acts 1851-52, ch. 2, sec. 2. Acts 1855, ch. 12, sec. 1. Acts 1872 (Spec. Sess.), ch. 10, sec. 4. Acts 1803, 1939; Burns, 1941 suppl., 22-3201; Baldwin, 1939 suppl., 4507. Acts 1899; Burns 26-534; Baldwin 5399. 1 Rev. Stat. 1852. Acts 1935; Burns, 1941 suppl., 26-620; Baldwin, 1935 suppl., 5233. Acts 1937; Burns, 1941 suppl., 26-640; Baldwin, 1937 suppl., 5236-1. Acts 1907; Burns 26-2008; Baldwin 5107. Acts 1917; Burns 26-2201; Baldwin 5165. Acts 1929; Burns 32-104; Baldwin 4878.

<sup>24</sup> Rev. L. 1831, ch. 90, sec. 30. Rev. Stat. 1843, ch. 7, sec. 14; ch. 19, sec. 42. 1 Rev. Stat. 1852, Acts 1935; Burns, 1941 suppl., 26-600; Baldwin, 1935 suppl., 5235. Acts 1909; Burns 26-1801 to 26-1803; Baldwin 5151, 5152; Baldwin 1935 suppl., 5152 note. Acts 1919; Burns 26-1805 to 26-1810; Baldwin 5155 to 5160.

Insurance. Potts v. Bennett, 140 Ind. 71, 39 N. E. 518 (1895); Barnhill v. Woodard, 26 Ind. App. 432, 59 N. E. 1085 (1901).

and supplies needed by the county officials;<sup>25</sup> has control over all civil engineering work for the county;<sup>26</sup> has charge of the construction and maintenance of roads,<sup>27</sup> bridges, culverts,<sup>28</sup> waterways,<sup>29</sup> and county buildings and other structures;<sup>30</sup> has the power of eminent domain;<sup>31</sup> provides office

<sup>25</sup> Rev. L. 1831, ch. 15, sec. 14. Rev. Stat. 1838, ch. 17, sec. 14. Rev. Stat. 1843, ch. 59, sec. 16 (14). 1 Rev. Stat. 1852, ch. 37, sec. 11. Acts 1865 (Spec. Sess.), ch. 99. Acts 1875, ch. 17. Acts 1899; Burns 26-535; Baldwin 5100. Acts 1899, 1903, 1933; Burns 26-536; Baldwin 5401. Acts 1917; Burns 26-2209; Baldwin 5173. Acts 1875 (Spec. Sess.), 1919; Burns 49-1435, 49-3206; Baldwin 13130, 5487. Acts 1899, 1913; Burns 52-209; Baldwin 13372.

<sup>26</sup> 1 Rev. Stat. 1852, ch. 103, sec. 2. Acts 1911; Burns 49-3309; Baldwin 5508.

<sup>27</sup> Rev. L. 1831, chs. 20, 22, 82. Rev. Stat. 1838, ch. 21, sec. 22; ch. 91. Rev. Stat. 1843, ch. 16. 1 Rev. Stat. 1852, ch. 48; ch. 80, sec. 4. Acts 1855, ch. 57. Acts 1858 (Spec. Sess.), ch. 9. Acts 1859, ch. 127, sec. 23. Acts 1865, chs. 8, 18, 39. Acts 1877, ch. 47; ch. 85, sec. 23. Acts 1879 (Spec. Sess.), ch. 115. Acts 1881 (Spec. Sess.), chs. 61-63. Acts 1885 (Spec. Sess.), chs. 57, 58, 68, 85. Acts 1893, chs. 83, 112, 163. Acts 1899, chs. 97, 109, 176, 206, 243. Acts 1901, chs. 51, 202, 205. Acts 1905, chs. 87, 100, 160, 164, 167. Acts 1913, chs. 330, 345. Acts 1915, ch. 186. Acts 1917, ch. 87, sec. 28; ch. 164. Acts 1919, chs. 112, 154, 208. Acts 1920 (Spec. Sess.), ch. 39. Acts 1921, ch. 178; ch. 234, sec. 3; ch. 262. Acts 1927, chs. 32, 239. Acts 1932 (Spec. Sess.), ch. 12, sec. 1; chs. 15, 16, 32. Acts 1933, chs. 27, 39. Acts 1935, chs. 56, 94, 145, 238. Acts 1937, ch. 48, sec. 1; ch. 135, secs. 4, 6, 8; chs. 136, 183; ch. 211, sec. 8. Acts 1939, ch. 64, sec. 1; ch. 140.

Convict labor. Acts 1913; Burns 13-109; Baldwin 13518.

<sup>28</sup> Rev. L. 1831, ch. 82, secs. 62, 66, 69. Rev. Stat. 1838, ch. 91, secs. 57-64. Rev. Stat. 1843, ch. 16, secs. 58-74. 1 Rev. Stat. 1852, ch. 16, secs. 4-6. Acts 1855, ch. 5. Acts 1869 (Spec. Sess.), ch. 8. Acts 1881, ch. 3, sec. 1. Acts 1885, chs. 31, 45. Acts 1895, ch. 96. Acts 1905, ch. 167, secs. 39, 45. Acts 1913, ch. 330. Acts 1919, chs. 93, 112. Acts 1920 (Spec. Sess.), ch. 25; ch. 39, sec. 4. Acts 1923, ch. 190. Acts 1927, ch. 10, secs. 4, 24; ch. 238, sec. 1. Acts 1929, ch. 114, secs. 1, 2; ch. 124. Acts 1932 (Spec. Sess.), ch. 32. Acts 1933, ch. 27, sec. 3.

<sup>29</sup> Acts 1832-33, ch. 58, sec. 2. Rev. Stat. 1852, ch. 73. Acts 1861, ch. 46, secs. 11, 12. Acts 1873, chs. 15, 106. Acts 1905, ch. 167, secs. 24-26, 29, 30. Acts 1915, ch. 94.

<sup>30</sup> Rev. L. 1831, ch. 15, sec. 13; ch. 20, secs. 24, 27; ch. 69, sec. 28; ch. 90, sec. 16. Rev. Stat. 1838, ch. 20, sec. 24; ch. 79, sec. 31. Rev. Stat. 1843, ch. 7, secs. 20, 21; ch. 19, secs. 34, 37; ch. 57, sec. 1. 1 Rev. Stat. 1852, ch. 20, secs. 16, 17; ch. 58, sec. 1; ch. 81, sec. 25. Acts 1855, ch. 12. Acts 1889, ch. 155. Acts 1895, ch. 105, secs. 13-16. Acts 1899, ch. 110, secs. 1-3; ch. 154, sec. 37. Acts 1901, ch. 38. Acts 1903, ch. 133. Acts 1907, ch. 271, secs. 1, 3, 4, 9. Acts 1911, ch. 173. Acts 1913, ch. 172, Acts 1915, ch. 163. Acts 1917, ch. 156, secs. 4-8. Acts 1919, ch. 55, secs. 2-5. Acts 1927, ch. 59, sec. 1. Acts 1933, ch. 258. Acts 1935, ch. 183.

<sup>31</sup> Acts 1837; Burns, 1941 suppl., 26-640; Baldwin, 1937 suppl., 5236-1. Acts 1899; Burns 26-2101 to 26-2106; Baldwin 5109 to 5114. Acts 1919; Burns 36-303; Baldwin 8861. Acts 1935; Burns, 1941 suppl., 36-711; Baldwin, 1935 suppl., 8861-1. Acts 1921; Burns 59-416; Baldwin 10783.



rooms for county officers;<sup>32</sup> prepares annual budget estimates;<sup>33</sup> may authorize tax refunds;<sup>34</sup> allows claims against the county;<sup>35</sup> issues bonds and short-term notes (after authorization by the county council); and may levy taxes for library purposes<sup>37</sup> and to retire certain county bonds.<sup>38</sup>

<sup>32</sup> Rev. L. 1831, ch. 15, sec. 13. Rev. Stat. 1838, ch. 17, sec. 13. Rev. Stat. 1843, ch. 7, sec. 21. 1 Rev. Stat. 1852, ch. 37, sec. 11. Acts 1855, ch. 49, sec. 31. Acts 1917, ch. 139, sec. 7. Acts 1919, ch. 186, sec. 7. Acts 1927; Burns 1941, suppl., 2-4726; no Baldwin. Acts 1899; Burns 26-507; Baldwin 5371. 1 Rev. Stat. 1852; Burns 26-624; Baldwin 5240. Acts 1899; Burns 26-625; Baldwin 5241. 1 Rev. Stat. 1852; Burns 49-3202; Baldwin 5470.

<sup>33</sup> Acts 1899; Burns 26-516, 26-519; Baldwin 5380, 5383.

Estimates for road maintenance are under control of the board and may be changed without the approval of the surveyor or county highway supervisor. *Bateman v. State*, 214 Ind. 138, 14 N.E. (2d) 1007 (1938).

<sup>34</sup> Rev. L. 1831, ch. 81, sec. 29. Acts 1853, ch. 110. Acts 1919, 1927, 1929; Burns 64-2819 to 64-2821; Baldwin 15881, 15882, 15885.

<sup>35</sup> Rev. L. 1831, ch. 20, secs. 7, 17; ch. 102, sec. 7. Rev. Stat. 1838, ch. 21, sec. 39. Rev. Stat. 1843, ch. 7, secs. 23, 26, 28, 29; ch. 19, sec. 31. 1 Rev. Stat. 1852, Acts 1935; Burns 1941 suppl., 26-620; Baldwin, 1935, suppl., 5236. Acts 1879 (Spec. Sess.); Burns 26-807; Baldwin 5256.

Claims under public welfare law. Acts 1901, ch. 183, sec. 1. Acts 1936 (Spec. Sess.); Burns, 1941 suppl., 52-1124; Baldwin, 1937 suppl., 14078-25.

<sup>36</sup> 1 Rev. Stat. 1852, ch. 20, secs. 17-23. Acts 1869, ch. 6. Acts 1873, ch. 14. Acts 1877, ch. 47, sec. 7. Acts 1881 (Spec. Sess.), ch. 61, sec. 4. Acts 1883, ch. 128, sec. 5. Acts 1889, ch. 18, sec. 1; ch. 137, sec. 3; ch. 230, sec. 1; ch. 234, sec. 13. Acts 1891, ch. 72, sec. 1; ch. 88, sec. 1. Acts 1893, ch. 112, sec. 5. Acts 1897, ch. 39, sec. 3. Acts 1899, ch. 206, sec. 7; ch. 252. Acts 1901, ch. 205, secs. 6, 12. Acts 1905, chs. 157, 167, 168. Acts 1909, ch. 101, sec. 12. Acts 1911, ch. 30, sec. 4. Acts 1913, ch. 172, sec. 3; ch. 205; ch. 275, sec. 5; ch. 357, sec. 12. Acts 1915, ch. 81, sec. 38; ch. 159, sec. 1. Acts 1917, ch. 87, sec. 28; ch. 124, sec. 6; ch. 144, secs. 1, 5; ch. 156, secs. 5, 10. Acts 1919, ch. 55, sec. 5; ch. 67; ch. 112, secs. 14, 43; ch. 115, sec. 8; ch. 131, sec. 4. Acts 1920 (Spec. Sess.), ch. 25, sec. 2; ch. 48, sec. 2. Acts 1921, ch. 153; ch. 245, secs. 4, 17; ch. 262, secs. 35, 43. Acts 1923, ch. 105, sec. 1; ch. 122, sec. 3. Acts 1925, chs. 96, 129; ch. 167, sec. 2; ch. 184. Acts 1927, ch. 10, sec. 4; ch. 38, sec. 1; ch. 52, sec. 1; ch. 72, sec. 1; ch. 174, sec. 3. Acts 1929, ch. 17, sec. 3; ch. 112, sec. 1; ch. 135; ch. 136, sec. 3; ch. 185. Acts 1931, ch. 73, sec. 1. Acts 1932 (Spec. Sess.), chs. 15, 46, 53. Acts 1933, chs. 130, 203, 234; ch. 264, secs. 36, 37. Acts 1935, ch. 117, secs. 1-3, 10; ch. 155, sec. 1. Acts 1936 (Spec. Sess.), ch. 3, secs. 102-104, 109. Acts 1937, ch. 136.

<sup>37</sup> Acts 1917, 1921, 1927, 1939; Burns, 1941 suppl., 41-510, 41-513; Baldwin, 1939 suppl., 10321, 10324. Acts 1917, 1921; Burns 41-515, 41-517; Baldwin 10326, 10328. Op. Atty. Gen. 1937, p. 136.

<sup>38</sup> Roads. Acts 1897, ch. 81, sec. 1. Acts 1899, ch. 109, sec. 4. Acts 1901, ch. 205, sec. 7. Acts 1911, ch. 30, secs. 6, 8. Acts 1913, ch. 226, sec. 1. Acts 1919; Burns 36-321; Baldwin 8874. Acts 1909; Burns 36-813; Baldwin 9121. Acts 1905, 1913; Burns 36-1220; Baldwin 8819. Acts 1921; Burns 36-1439; Baldwin 8942.

Jails. Acts 1891, ch. 88, sec. 2.

The board may establish or abolish townships and election precincts, and change the boundary lines thereof;<sup>39</sup> provide rooms, booths, chutes, and ballot boxes for elections, and may provide voting machines;<sup>40</sup> directs payment of the county share of the expenses of registrations for elections and determines the amounts to be paid by the cities in the county;<sup>41</sup> divided the county into four councilmanic districts (for county council) in 1899 and may change the boundaries thereof at intervals of not less than 6 years;<sup>42</sup> may order elections (not oftener than once each 3 years) on the question of change of county boundaries or formation of a new county;<sup>43</sup> may order an election on the question of relocation of the county seat;<sup>44</sup> may order an election on the question of establishment of a sanitary district within the county;<sup>45</sup> may order the establishment and construction of a drainage

Bridges. Acts 1920 (Spec. Sess.); Burns 36-2402; Baldwin 9152.

Flood control. Acts 1915, 1920 (Spec. Sess.); Burns 48-5026; Baldwin 12382.

Hospital. Acts 1913, ch. 275, sec. 1 (repealed by Acts 1927, ch. 144, sec. 20). Acts 1917, 1919, 1921, 1925, 1927; Burns 22-3215; Baldwin 4517.

Purchase of land for park purposes. Acts 1927; Burns 26-1514; Baldwin 5192.

Purchase of public forest lands. Acts 1929; Burns 32-103; Baldwin 4877.

<sup>39</sup> Townships. Rev. L 1831, ch. 33, sec. 4. Rev. Stat. 1838, ch. 34, sec. 5. Rev. Stat. 1843, ch. 2, sec. 1. 1 Rev. Stat. 1852, ch. 110, sec. 1. Acts 1859, 1939, 1941; Burns, 1941 suppl., 26-701; Baldwin, 1941 suppl., 16055. Acts 1919, 1939; Burns, 1941 suppl., 26-705; Baldwin, 1939 suppl., 16059.

Election precincts. Acts 1833-34, ch. 48. Rev. Stat. 1838, ch. 32, sec. 33. Rev. Stat. 1843, ch. 5, sec. 18. 1 Rev. Stat. 1852, ch. 31, sec. 3. Acts 1877 (Spec. Sess.), ch. 15, secs. 1, 4. Acts 1881 (Spec. Sess.), ch. 47, secs. 8, 9, 11. Acts 1913, ch. 185, secs. 2, 25. Acts 1917, ch. 139, secs. 3, 47. Acts 1919, ch. 186, sec. 3. Acts 1920 (Spec. Sess.), ch. 11, sec. 1. Acts 1927, ch. 195. Acts 1915; Burns 29-518; Baldwin 7204. Acts 1933; Burns 29-319, 29-1808; Baldwin 7317, 11632. Acts 1889, 1907; Burns 29-801 *et seq.*; Baldwin 7089 *et seq.* Acts 1920 (Spec. Sess.); Burns 29-901; Baldwin 7091. Acts 1901, 1903; Burns 29-2404; Baldwin 7352.

<sup>40</sup> Rev. L. 1831, ch. 32, secs. 18, 19. Rev. Stat. 1838, ch. 32, secs. 10, 30. Rev. Stat. 1843, ch. 5, secs. 25-28. 1 Rev. Stat. 1852, ch. 31, sec. 12. Acts 1881 (Spec. Sess.), ch. 47, sec. 18. Acts 1889, ch. 155, sec. 2. Acts 1901, ch. 260, sec. 4. Acts 1907, ch. 282, sec. 14. Acts 1920 (Spec. Sess.); Burns 29-909; Baldwin 7154. Acts 1889; Burns 29-1101; Baldwin 7101. Acts 1897; Burns 29-1121; Baldwin 7135. Acts 1901, 1903; Burns 29-2404; Baldwin 7352.

<sup>41</sup> Acts 1941, ch. 86, sec. 3. Acts 1933; Burns 29-305; Baldwin 7303.

<sup>42</sup> Acts 1899; Burns 26-502; Baldwin 5366.

<sup>43</sup> Const. 1851, art. 15, sec. 7. Acts 1857, ch. 15. Acts 1859, ch. 22, sec. 1. Acts 1875; Burns 26-201; Baldwin 5032. Acts 1861; Burns 26-301; Baldwin 5044.

<sup>44</sup> Acts 1855, ch. 12. Acts 1865 (Spec. Sess.), ch. 94. Acts 1869, ch. 7. Acts 1885 (Spec. Sess.); Burns 26-401, 26-410; Baldwin 5056, 5065.

<sup>45</sup> Acts 1913, 1931; Burns 48-4101; Baldwin 11720.

ditch when requested by a petition of landowners;<sup>46</sup> may pass on remonstrances against repair or reconstruction of drains;<sup>47</sup> may assess benefits or damages in the construction or improvement of ditches, drains, or water courses;<sup>48</sup> may join with the commissioners of adjacent counties or with counties in adjacent States for the construction or improvement of any ditch, drain, or water course;<sup>49</sup> may establish and maintain libraries<sup>50</sup> and hospitals;<sup>51</sup> may establish and maintain an asylum for orphan children;<sup>52</sup> has control of the county poor asylum;<sup>53</sup> may establish a workhouse and employ a superintendent thereof;<sup>54</sup> inspects the county jail<sup>55</sup> and poor asylum;<sup>56</sup> may prescribe regulations governing the work of prisoners outside the jail;<sup>57</sup> maintains standards of weights and measures;<sup>58</sup> may order the establishment of a permanent meridian line in the county;<sup>59</sup> may regulate traffic on the county roads;<sup>60</sup> must repair danger signs installed on public highways

<sup>46</sup> Acts 1927, ch. 60, sec. 1. Acts 1933, ch. 264, sec. 81. Acts 1933; Burns 27-104; Baldwin 5740.

<sup>47</sup> Acts 1907, ch. 253, sec. 17. Acts 1915 ch. 107, sec. 11. Acts 1927, ch. 166, sec. 1. Acts 1933, ch. 264, sec. 81. Acts 1933; Burns 27-120; Baldwin 5756.

<sup>48</sup> Acts 1941, ch. 63. Acts 1933; Burns 27-315; Baldwin 5810.

<sup>49</sup> Acts 1933; Burns 27-301, 27-207; Baldwin 5796, 5802.

<sup>50</sup> Rev. L. 1831, ch. 59, secs. 9, 10. Rev. Stat. 1843, ch. 25, secs. 78-81. 1 Rev. Stat. 1852; Burns 41-501, 41-502; Baldwin 10321 note. Acts 1917, 1921, 1927, 1939; Burns, 1941 suppl., 41-510; Baldwin, 1939 suppl., 10321. Op. Atty. Gen. 1939, p. 124.

<sup>51</sup> Acts 1917, ch. 144, secs. 1, 20. Acts 1919, ch. 131. Acts 1923, ch. 111. Acts 1925, chs. 73, 128. Acts 1927, chs. 52, 72. Acts 1929, ch. 8. Acts 1903, 1939; Burns, 1941 suppl., 22-3201; Baldwin, 1939 suppl., 4507. Acts 1907; Burns 43-7514; Baldwin 4539.

<sup>52</sup> Acts 1897; Burns 22-2601; Baldwin 4362. Acts 1881, 1885 (Spec. Sess.), 1891; Burns 22-2603; Baldwin 4397.

<sup>53</sup> Const. 1816, art. 9, sec. 4. Const. 1851, art. 9, sec. 3. 1 Rev. Stat. 1852, ch. 81, secs. 25-38. Acts 1899, ch. 76. Acts 1913, ch. 330.

<sup>54</sup> Acts 1879 (Spec. Sess.); Burns 13-1101, 13-1102; Baldwin 13759, 13760.

<sup>55</sup> Acts 1909; Burns 13-1008; Baldwin 13460.

<sup>56</sup> Rev. Stat. 1843, ch. 19, sec. 38. 1 Rev. Stat. 1852, ch. 115, sec. 3 (repealed by Acts 1853, ch. 119, sec. 1). 1 Rev. Stat. 1852, Acts. 1899; Burns 52-205; Baldwin 13373.

<sup>57</sup> Acts 1879, ch. 26. Acts 1905; Burns 9-2229; Baldwin 2326.

<sup>58</sup> Rev. L. 1831, ch. 110, secs. 1, 2. Rev. Stat. 1838, ch. 114. Rev. Stat. 1843, ch. 63. Acts 1911 ch. 263, secs. 3-7. Acts 1913, ch. 161, sec. 1. 1 Rev. Stat. 1852; Burns 69-101; no Baldwin.

<sup>59</sup> Acts 1895; Burns 49-3327; Baldwin 10849.

<sup>60</sup> Acts 1925, ch. 213, sec. 52. Acts 1907; Burns 26-629; Baldwin 2928. Acts 1919; Burns 36-706; Baldwin 8859. Acts 1939; Burns, 1941 suppl., 47-1827, 47-1828, 47-2005; Baldwin, 1939 suppl., 11189-37, 11189-38, 11189-66.

by railroad companies;<sup>61</sup> must install and maintain street lights along any property owned by the county and abutting that of a town or city;<sup>62</sup> may acquire, improve, and equip aviation fields;<sup>63</sup> may provide and maintain memorials for soldiers and sailors of the World War;<sup>64</sup> may authorize the merging of cemetery associations which control contiguous cemeteries;<sup>65</sup> may enforce regulations of the Administrative Building Council of Indiana;<sup>66</sup> and may determine the question of public utility of a levee petitioned for by a levee association.<sup>67</sup>

The board may receive funds and property from private sources and hold the same in trust for certain purposes;<sup>68</sup> may receive donations for bridges,<sup>69</sup> parks, monuments, and public grounds;<sup>70</sup> may accept donations of buildings and grounds for county high schools and county agricultural schools;<sup>71</sup> may make donations for certain educational purposes;<sup>72</sup> may render financial assistance to the State Highway Commission in the construction and maintenance of a State highway or bridge;<sup>73</sup> may order elections on the question of public aid to railroads and may grant such aid when

<sup>61</sup> Acts 1921; Burns 55-2009, 55-2010; Baldwin 8637, 8638.

<sup>62</sup> Acts 1917; Burns 48-3327; Baldwin 5568.

<sup>63</sup> Acts 1920 (Spec. Sess.); Burns 14-301 to 14-306; Baldwin 4021, 7991, 4023 to 4026.

<sup>64</sup> Acts 1921; Burns 59-310, 59-401 to 59-422; Baldwin 10807, 10768 to 10789. Acts 1929; Burns 59-423; Baldwin 10790. Acts 1919; Burns 59-501; Baldwin 10822.

<sup>65</sup> Acts 1909; Burns 21-501 to 21-504; Baldwin 4639 to 4642.

<sup>66</sup> Acts 1923; Burns 20-408; Baldwin 4610.

<sup>67</sup> Acts 1905, ch. 168. Acts 1913, 1927; Burns 27-915; Baldwin 10241.

<sup>68</sup> Acts 1929, 1931; Burns 26-631, 26-632; Baldwin 4578, 4579.

Cemeteries. Acts 1838-39 (general), ch. 43, secs. 1, 3. Rev. Stat. 1843, ch. 25, secs. 63-67. Acts 1915; Burns 21-214, 21-217; Baldwin 4668, 4674. 1 Rev. Stat. 1852; Burns 25-1521; Baldwin 10600. Op. Atty. Gen. 1940, p. 158.

Homes for indigent persons. Acts 1889; Burns 26-1204; Baldwin 5297. Acts 1903; Burns 26-1205; Baldwin 13446.

Boundaries for volunteers to military and naval service. Acts 1869 (Spec. Sess.), ch. 7, sec. 1.

<sup>69</sup> Rev. L. 1831, ch. 82, sec. 67. Rev. Stat. 1838, ch. 91, sec. 62. Rev. Stat. 1843, ch. 16, sec. 61. Acts 1855, ch. 5, sec. 3. Acts 1857, ch. 11, sec. 3. Acts 1905; Burns 36-1902; Baldwin 9237.

<sup>70</sup> Acts 1865 (Spec. Sess.), ch. 73. Acts 1872 (Spec. Sess.), ch. 6. Acts 1903, ch. 138.

<sup>71</sup> Acts 1889, 1905, 1913, 1921; Burns 28-5124; Baldwin, 6119.

<sup>72</sup> Acts 1889, ch. 230, sec. 1. Acts 1899, ch. 187, sec. 10. Acts 1897; Burns 28-5503 to 28-5506; Baldwin 6784 to 6787.

<sup>73</sup> Acts 1923, 1929; Burns 36-136; Baldwin 8672.



authorized by election;<sup>74</sup> receives petitions for aid to historical societies, makes estimates and recommendations as to amounts of funds needed, and refers the same to the county council for action thereon;<sup>75</sup> may provide funds for the publication and distribution of World War histories;<sup>76</sup> may grant aid for city libraries<sup>77</sup> and for agricultural fairs;<sup>78</sup> may cancel allowances and warrants drawn thereon if not called for within 5 years;<sup>79</sup> may order the county auditor to issue fee bills for costs "in cases tried and heard" before the board "in which costs are adjudged against any party";<sup>80</sup> may grant franchises to street railway companies for the extension of tracks beyond city limits;<sup>81</sup> may authorize the fencing of lands subject to overflow and the charging of special assessments against the lands benefited thereby;<sup>82</sup> may make special assessments to pay for flood control maintenance<sup>83</sup> and the cost of construction of roads;<sup>84</sup> may subscribe for newspapers printed in the county and require the recorder to preserve copies thereof;<sup>85</sup> may order the reproduction of mutilated or decayed records;<sup>86</sup> may administer oaths; may enforce its orders; may punish for contempt;<sup>87</sup> may authorize the payment of certain bounties;<sup>88</sup> may offer rewards in case of murder or

<sup>74</sup> Acts 1869 (Spec. Sess.), 1873, (Spec. Sess.) 1879; Burns 55-302, 55-314; Baldwin 14336, 14348.

Acts 1872 (Spec. Sess.); Burns 55-404, 55-411, 55-416; Baldwin 14382, 14389, 14394

<sup>75</sup> Acts 1901, ch. 233. Acts 1929; Burns 26-1303, 26-1304; Baldwin 5577, 5578.

<sup>76</sup> Acts 1921; Burns 26-1312; Baldwin 5304.

<sup>77</sup> Acts 1917, 1921, 1939; Burns, 1941 suppl., 41-514; Baldwin, 1939 suppl., 10325.

<sup>78</sup> Acts 1905, 1927, 1932 (Spec. Sess.); Burns 15-317, 15-318; Baldwin 3597, 3598.

<sup>79</sup> Acts 1879 (Spec. Sess.); Burns 26-815; Baldwin 5273.

<sup>80</sup> Acts 1865 (Spec. Sess.); Burns 26-639; Baldwin 5360.

<sup>81</sup> Acts 1875 (Spec. Sess.); Burns 55-610; Baldwin 14151. Acts 1865, 1879 (Spec. Sess.);

Burns 55-3901; Baldwin 15457.

<sup>82</sup> Acts 1875; Burns 30-501 to 30-503; Baldwin 7642 to 7644. Acts 1877 (Spec. Sess.); Burns 30-605 to 30-608; Baldwin 7655 to 7658.

<sup>83</sup> Acts 1915, 1920 (Spec. Sess.); Burns 48-5038, 48-5040; Baldwin 12384, 12386.

<sup>84</sup> Acts 1877, ch. 47, secs. 6, 7. Acts 1883, ch. 128, sec. 4. Acts 1893, ch. 112, sec. 6.

Acts 1905; Burns 36-1308; Baldwin 8794. Acts 1921; Burns 36-1412 to 36-1414; Baldwin 8915 to 8917.

<sup>85</sup> 1 Rev. Stat. 1852; Burns 26-626 to 26-628; Baldwin 5285 to 5287.

<sup>86</sup> Acts 1877; Burns 26-634, 26-635; Baldwin 5339, 5340. 1 Rev. Stat. 1852; Burns 49-3232; Baldwin 5432. 2 Rev. Stat. 1852; Burns 57-101, 57-102, 57-109, 57-111; Baldwin 1168, 1169, 1176, 1178.

<sup>87</sup> Acts 1883-34, ch. 24. Rev. Stat. 1838, ch. 21, secs. 37, 38; ch. 76, sec. 3. Rev. Stat. 1843, ch. 7, secs. 10, 11. 1 Rev. Stat. 1852; Burns 26-619; Baldwin 5233.

<sup>88</sup> Rev. L. 1831, ch. 111, sec. 4. Rev. Stat. 1838, ch. 115. Acts 1844-45 (general), ch. 46, sec. 5. 1 Rev. Stat. 1852, ch. 118. Acts 1867, ch. 9, sec. 3. Acts 1873, ch. 14, secs. 1, 2. 1 Rev. Stat. 1852, Acts 1875, 1883, 1911; Burns 26-1101 26-1103, 26-1105, 26-1106; Baldwin 5288, 5289, 3802, 5293, 5294.



lynching;<sup>89</sup> and provides funds for the arrest and return of fugitives from justice.<sup>90</sup>

The board receives and examines the treasurer's quarterly reports,<sup>91</sup> and makes annual settlement with him;<sup>92</sup> annually prepares a statement of the receipts and disbursements of the previous year, and causes it to be published and posted;<sup>93</sup> makes an annual report concerning the school funds (after receiving reports from the county treasurer and auditor), makes a permanent record of this report, and sends a copy to the Auditor of State;<sup>94</sup> may approve (subject to further approval by the State Board of accounts) the installation of a modern tax-accounting system in the offices of the auditor and treasurer;<sup>95</sup> may authorize county officers to use a photographic process for recording deeds, mortgages, and other instruments;<sup>96</sup> and may direct the county surveyor to procure a certified copy of the field notes of the townships, ranges, sections, fractional sections, and quarter sections, as originally surveyed, from register of land office and to deposit the same in the office of the recorder.<sup>97</sup>

The board may license ferries<sup>98</sup> and fix ferry rates;<sup>99</sup>

<sup>89</sup> Acts 1899; Burns 26-1104; Baldwin 5290.

<sup>90</sup> Acts 1901, ch. 104. Acts 1905, ch. 169, sec. 42. Acts 1909, ch. 66, sec. 1. Acts 1921, ch. 8, sec. 2. Acts 1923, ch. 92, sec. 1. Acts 1935; Burns, 1941 suppl., 9-419, 9-442; Baldwin, 1937 suppl., 2049-1, 2049-24.

<sup>91</sup> Rev. L. 1824, ch. 23, sec. 4. Acts 1842-43 (general), ch. 74, sec. 1. Acts 1871, ch. 17, secs. 27, 31. Acts 1873, ch. 48, sec. 41. Acts 1895, 1913; Burns 49-1403; Baldwin 7578.

<sup>92</sup> Rev. L. 1831, ch. 21, sec. 2. Rev. Stat. 1838, ch. 22, sec. 2. Rev. Stat. 1843, ch. 7, sec. 80. Acts 1899; Burns 26-531; Baldwin 5395. 1 Rev. Stat. 1852  
Burns 49-3116; Baldwin 5563.

<sup>93</sup> Rev. L. 1831, ch. 20, sec. 10. Rev. Stat. 1838, ch. 21, sec. 10. Rev. Stat. 1843, ch. 7, sec. 35. 1 Rev. Stat. 1852, ch. 20, sec. 29. Acts 1899; Burns 26-546; Baldwin 5411.

<sup>94</sup> Acts 1846-47 (general), ch. 9, sec. 4. 1 Rev. Stat. 1852, ch. 98, secs. 63, 65-67. Acts 1855, ch. 86, secs. 90-92. Acts 1865; Burns 28-259 to 28-262; Baldwin 6611 to 6614.

<sup>95</sup> Acts 1937; Burns, 1941 suppl., 60-238 to 60-240; Baldwin. 1937 suppl., 15863-1 to 15863-3.

<sup>96</sup> Acts 1927; Burns 49-3207; Baldwin 14667.

<sup>97</sup> Rev. L. 1831, ch. 102, secs. 5, 7. Rev. Stat. 1838, ch. 103, secs. 5, 7. Rev. Stat. 1843, ch. 10, secs. 9, 10. 1 Rev. Stat. 1852, ch. 103, sec. 2. Acts 1911; Burns 49-3309; Baldwin 3508.

<sup>98</sup> Rev. L. 1831, ch. 38, sec. 1. Rev. Stat. 1838, ch. 41, sec. 1. Rev. Stat. 1843, ch. 17, secs. 1-8. 1 Rev. Stat. 1852, ch. 80, sec. 27. Acts 1881 (Spec. Sess.), 1911; Burns 36-2501; Baldwin 7676. 1 Rev. Stat. 1852, Acts 1855; Burns 36-2601; Baldwin 7691. Acts 1881 (Spec. Sess.), 1897; Burns 36-2508; Baldwin 7698.

<sup>99</sup> Rev. L. 1831, ch. 26, sec. 43; ch. 38, sec. 10. Rev. Stat. 1838, ch. 41, sec. 10. Rev. Stat. 1843, ch. 53, sec. 82. 1 Rev. Stat. 1852, ch. 39, sec. 10. Acts 1881 (Spec. Sess.), 1897; Burns 36-2513; Baldwin 7703.

may make certain regulations concerning the operation of ferries;<sup>100</sup> may authorize elections for the incorporation of towns and declare the results thereof;<sup>101</sup> may authorize a town to annex unplatted land;<sup>102</sup> may specify "what kind of animals shall be allowed to pasture or run at large on the uninclosed lands or public commons" within the bounds of any township in the county;<sup>103</sup> may furnish antitoxin and virus for poor persons without charge;<sup>104</sup> may contract with the State Veterinarian for tuberculin cattle tests;<sup>105</sup> and may, with the consent of the county council, appropriate money for the extermination of rats.<sup>106</sup>

The board cannot bind the county by any contract or agreement, or in any other way, to any extent beyond the amount of money already appropriated by ordinance of the county council for the purpose of the obligation attempted to be incurred, unless some law enacted after 1897 expressly authorizes such action.<sup>107</sup>

The board has authority to appoint a county highway supervisor,<sup>108</sup> a highway construction inspector,<sup>109</sup> a county health officer,<sup>110</sup> a public health nurse,<sup>111</sup> a county inspector of weights and measures,<sup>112</sup> a superintendent of the

<sup>100</sup> Rev. L. 1831, ch. 38, secs. 5, 7, 11. Rev. Stat. 1843, ch. 17, sec. 9. 1 Rev. Stat. 1852; Burns 36-2606; Baldwin 7686. Acts 1881 (Spec. Sess.); Burns 36-2614; Baldwin 7704.

<sup>101</sup> Rev. Stat. 1843, ch. 25, secs. 1, 2. 1 Rev. Stat. 1852, ch. 108, sec. 5. Acts 1905, 1909; Burns 48-104, 48-105, 48-109; Baldwin 11327, 11328, 11332

<sup>102</sup> 1 Rev. Stat. 1852, ch. 17, secs. 82, 83; ch. 108, secs. 51, 52. Acts 1857, ch. 33, secs. 84, 85. Acts 1865 (Spec. Sess.), ch. 1, secs. 83, 84, 92. Acts 1867, ch. 15, secs. 85, 86. Acts 1909; Burns 48-707, 48-708; Baldwin 11340, 11341.

<sup>103</sup> Acts 1843-44 (general), ch. 45. 1 Rev. Stat. 1852, Acts 1879 (Spec. Sess.); Burns 16-101, 16-102; Baldwin 5028, 5029.

<sup>104</sup> Acts 1907, 1919, 1929, 1935; Burns, 1941 suppl., 35-701; Baldwin, 1935 suppl., 13392.

<sup>105</sup> Acts 1925, 1927; Burns 16-608; Baldwin 3871. Acts 1931; Burns 16-616; Baldwin 3883.

<sup>106</sup> Acts 1913; Burns 35-1603; Baldwin 8572.

<sup>107</sup> Acts 1899; Burns 26-525; Baldwin 5389.

<sup>108</sup> Acts 1933; Burns 36-1110; Baldwin 8708. See the essay entitled "County Highway Supervisor."

<sup>109</sup> Acts 1919; Burns 36-324; Baldwin 8876. Acts 1921; Burns 36-1447; Baldwin 8950.

<sup>110</sup> Acts 1935; Burns, 1941 suppl., 35-118; Baldwin, 1935 suppl., 8404-1. See the essay entitled "County Health Officer."

<sup>111</sup> Acts 1935; Burns, 1941 suppl., 35-123; Baldwin, 1935 suppl., 8404-6. See the essay entitled "Public Health Nurse."

<sup>112</sup> Acts 1911, ch. 263, sec. 3. Acts 1913, ch. 161, sec. 1. Acts 1925; Burns 69-104, 69-107; Baldwin 16335, 16338.

poor asylum,<sup>113</sup> a curator for the county historical society (if any),<sup>114</sup> food inspectors (beef, flour, pork, salt, and hay),<sup>115</sup> an appraiser of State lands,<sup>116</sup> fence viewers,<sup>117</sup> hospital trustees,<sup>118</sup> a board of visitors (one member from each township) to the county asylum,<sup>119</sup> a memorial committee (100 or more members),<sup>120</sup> three members of a board of memorial trustees,<sup>121</sup> one member of the local alcoholic beverage board,<sup>122</sup> five members of county planning commission,<sup>123</sup> three members of the county public library board,<sup>124</sup> two members of a city or town library board (when city or town library is receiving county aid),<sup>125</sup> and three members of a miners' examination board;<sup>126</sup> may employ a county attorney,<sup>127</sup> tax ferrets,<sup>128</sup> a civil engineer (if the surveyor is not a competent civil engineer),<sup>129</sup> bridge superintend-

<sup>113</sup> Rev. Stat. 1843, ch. 19, sec. 34. 1 Rev. Stat. 1852; Burns 52-201; Baldwin 13360. Acts 1927; Burns 22-3009; Baldwin 4354. Acts 1899, 1913; Burns 52-204; Baldwin 13365.

<sup>114</sup> Acts 1921, ch. 248, sec. 1. Acts 1929; Burns 26-1309; Baldwin 5383.

<sup>115</sup> Acts 1816-17, ch. 26, sec. 1. Acts 1818-19, ch. 15, secs. 1, 2. Rev. L. 1824, ch. 109, sec. 4. Rev. L. 1831, ch. 50, secs. 1-6. Acts 1833-34, ch. 72, secs. 1, 14. Rev. Stat. 1838, ch. 53, secs. 1, 3, 6. Acts 1839-40 (general), ch. 21, sec. 1. Rev. Stat. 1843, ch. 27, secs. 1, 3. 1 Rev. Stat. 1852; Burns 35-1901; Baldwin 9468.

<sup>116</sup> Acts 1889; Burns 62-207; Baldwin 15273.

<sup>117</sup> Rev. L. 1831, ch. 20, sec. 20. Rev. Stat. 1838, ch. 21, secs. 20-23. Acts 1875; Burns 30-501; Baldwin 7642. Acts 1877 (Spec. Sess.); Burns 30-605; Baldwin 7655.

<sup>118</sup> Acts 1917, ch. 144, sec. 20. Acts 1917; Burns 22-3217, 22-3219; Baldwin 4518, 4520. Acts 1913, 1917, 1927; Burns 22-3301; Baldwin 4478. Acts 1925; Burns 22-3402; Baldwin 9286.

<sup>119</sup> 1 Rev. Stat. 1852; Burns 52-217; Baldwin 13377.

<sup>120</sup> Acts 1919; Burns 59-502; Baldwin 10823.

<sup>121</sup> Acts 1919, 1921; Burns 59-506; Baldwin 10827.

<sup>122</sup> Acts 1935, 1937, 1941; Burns, 1941 suppl., 12-417; Baldwin, 1941 suppl., 3764-6.

<sup>123</sup> Acts 1935; Burns, 1941 suppl., 26-2301; Baldwin, 1935 suppl., 5205-1.

<sup>124</sup> Acts 1917, 1921, 1927, 1939; Burns, 1941 suppl., 41-510; Baldwin, 1939 suppl., 10321.

<sup>125</sup> Acts 1917, 1921, 1939; Burns, 1941 suppl., 41-514; Baldwin, 1939 suppl., 10325.

<sup>126</sup> Acts 1923; Burns 46-1001; Baldwin 11073.

<sup>127</sup> Acts 1917; Burns 10-3103; Baldwin 822. Acts 1899; Burns 26-519; Baldwin 5383.

<sup>128</sup> Acts 1905; Burns 64-2830; Baldwin, 1935 suppl., 15606-1.

<sup>129</sup> Acts 1877, ch. 47, sec. 2. Acts 1883, ch. 128, sec. 2. Acts 1891, ch. 196, sec. 3. Acts 1893, ch. 88, sec. 2; ch. 112, sec. 1. Acts 1901, ch. 205, secs. 1, 10, 14. Acts 1903, ch. 145, sec. 2. Acts 1883; Burns 26-1405; Baldwin 5317. Acts 1919; Burns 36-306, 36-505; Baldwin 8864, 8883. Acts 1909; Burns 36-805; Baldwin 9113. Acts 1905, 1907; Burns 36-1205, 36-1301; Baldwin 8808, 8787. Acts 1903; Burns 36-1235; Baldwin 9095. Acts 1921; Burns 36-1410; Baldwin 8913. 1 Rev. Stat. 1852, Acts 1911; Burns 49-3309; Baldwin 5508.

ents<sup>130</sup> a custodian of public halls,<sup>131</sup> inspectors for construction and repair of county buildings,<sup>132</sup> a commissioner to reproduce county records which have been mutilated or destroyed,<sup>133</sup> road viewers and reviewers,<sup>134</sup> a county veterinarian,<sup>135</sup> a physician for poor persons (in county institutions) and prisoners;<sup>136</sup> may regulate the number of justices of the peace in each township (subject to certain statutory requirements), and may appoint justices in certain instances;<sup>137</sup> may authorize the appointment of deputies and assistants of county officers;<sup>138</sup> approves the official bonds<sup>139</sup>

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<sup>130</sup> Rev. L. 1831, ch. 82, sec. 62. Rev. Stat. 1838, ch. 91, sec. 57. Rev. Stat. 1843, ch. 16, sec. 62. Acts 1855, ch. 5, sec. 4. Acts 1863, ch. 10, sec. 3. Acts 1869 (Spec. Sess.), ch. 8, sec. 2. Acts 1905, 1911, 1913; Burns 36-2001; Baldwin 9191. Acts 1903; Burns 36-2003; Baldwin 9198. Acts 1895; Burns 38-2217; Baldwin 9232.

<sup>131</sup> Acts 1903; Burns 26-1904; Baldwin 5149.

<sup>132</sup> Acts 1907; Burns 26-2006; Baldwin 5105.

<sup>133</sup> 2 Rev. Stat. 1852, Acts 1865; Burns 57-109; Baldwin 1176.

<sup>134</sup> Rev. L. 1831, ch. 82, secs. 4, 53. Rev. Stat. 1838, ch. 91, secs. 4, 7, 10, 13, 74, 75. Rev. Stat. 1843, ch. 16, secs. 13, 18, 22, 33, 39. 1 Rev. Stat. 1852, ch. 48, secs. 9, 15, 19, 22, 23. Acts 1865, ch. 8, secs. 3-5. Acts 1869 (Spec. Sess.), ch. 35, sec. 2. Acts 1875, ch. 50, sec. 3. Acts 1877, ch. 47, secs. 2-6. Acts 1883, ch. 128, secs. 2, 3. Acts 1889, ch. 85, sec. 2; ch. 137, sec. 1; ch. 192, sec. 1; ch. 234, sec. 2. Acts 1893, ch. 88, sec. 2; ch. 112, sec. 1. Acts 1901, ch. 205, secs. 1, 14. Acts 1903, ch. 145, sec. 2. Acts 1905, 1907, 1911, 1913; Burns 36-201, 36-205, 36-209, 36-216, 36-220, 36-221, 36-223, 36-224, 36-1205, 36-1215, 36-1301; Baldwin 8756, 8760, 8764, 8773, 8776, 8777, 8780, 8781, 8808, 9097, 8787. Acts 1907; Burns 36-405; Baldwin 8696. Acts 1909; Burns 36-805, 36-808; Baldwin 9113, 9116. Acts 1933; Burns 36-1108; Baldwin 8076. Acts 1921; Burns 36-1430; Baldwin 8933. Acts 1935; Burns, 1941 suppl., 36-2704, 36-2705; Baldwin, 1935 suppl., 14775-4, 14775-5.

<sup>135</sup> Acts 1925; Burns 16-609; Baldwin 3872. Acts 1915; Burns 16-703; Baldwin 3853.

<sup>136</sup> 1 Rev. Stat. 1852, ch. 3, sec. 8; ch. 81, sec. 27. Acts 1859, ch. 5, sec. 1. Acts 1899; Burns 26-533; Baldwin 5398. Lamar v. Board of County Comrs., 4 Ind. App. 191, 30 N. E. 912 (1892).

<sup>137</sup> Rev. L. 1831, ch. 33, secs. 5-7. Rev. Stat. 1838, ch. 21, sec. 12. Rev. Stat. 1843, ch. 4, sec. 22. 2 Rev. Stat. 1852, ch. 1, sec. 1, p. 449. Acts 1913; Burns 5-101; Baldwin 1828. Acts 1891, 1923; Burns 5-109, 5-110; Baldwin 1833, 1834.

Formerly the board ordered special elections to fill vacancies in the office of justice of the peace. Acts 1819-20, ch. 21, sec. 2. Acts 1838-39 (general), ch. 83, sec. 2.

<sup>138</sup> Acts 1816-17, ch. 26, sec. 1. Acts 1840-41 (general), ch. 3, sec. 6. Rev. Stat. 1843, ch. 7, sec. 63. Acts 1891, ch. 99, sec. 113. Acts 1933; Burns 36-1107; Baldwin 8075. Acts 1935; Burns, 1941 suppl., 36-1114; Baldwin, 1935 suppl., 8703-1. Acts 1921; Burns 49-504; Baldwin 5497. Acts 1933, 1935, 1937; Burns, 1941 suppl., 49-1002; Baldwin, 1937 suppl., 7532. Acts 1937; Burns, 1941 suppl., 49-3330; Baldwin, 1937 suppl., 5511-1.

<sup>139</sup> Acts 1847-48 (general), ch. 58. Acts 1851-52; Burns 49-123; Baldwin 13093. Acts 1873; Burns 49-141; Baldwin 13092.



of the auditor,<sup>140</sup> clerk of the circuit court,<sup>141</sup> coroner,<sup>142</sup> recorder,<sup>143</sup> sheriff,<sup>144</sup> surveyor,<sup>145</sup> treasurer,<sup>146</sup> bridge superintendents,<sup>147</sup> memorial trustees,<sup>148</sup> hospital trustees,<sup>149</sup> superintendent of the poor asylum,<sup>150</sup> and county inspector of weights and measures;<sup>151</sup> directs the commencement of actions on the bonds of defaulting county and township officials;<sup>152</sup> may remove a delinquent county treasurer after suit on his official bond has been commenced;<sup>153</sup> may remove township trustee from office for failure to keep proper books and accounts as required by the school laws;<sup>154</sup> and may appoint successors in case of any vacancy in the offices of auditor, clerk of the circuit court, coroner, county assessor, surveyor, sheriff, treasurer,<sup>155</sup> any officers originally

<sup>140</sup> Acts 1840-41 (general), ch. 2, secs. 2, 5. Rev. Stat. 1843, ch. 7, secs. 45, 49, 1 Rev. Stat. 1852, ch. 8, sec. 2. Acts 1889; Burns 49-3003; Baldwin 5417.

<sup>141</sup> Acts 1847-48 (general), ch. 58. Acts 1851-52; Burns 49-123; Baldwin 13093. Acts 1875; Burns 49-2703; Baldwin 1430.

<sup>142</sup> Acts 1851-52; Burns 49-123; Baldwin 13093. 2 Rev. Stat. 1852, Acts 1933; Burns 49-2901; Baldwin 5436.

<sup>143</sup> Acts 1851-52; Burns 49-123; Baldwin 13093. 1 Rev. Stat. 1852, Acts 1901; Burns 49-3201; Baldwin 5469.

<sup>144</sup> Acts 1851-52; Burns 49-123; Baldwin 13093. 2 Rev. Stat. 1852, Acts 1937; Burns, 1941 suppl., 49-2801; Baldwin, 1937 suppl., 5493.

<sup>145</sup> Acts 1913; Burns 49-3302 to 49-3304; Baldwin 5505 to 5507.

<sup>146</sup> Rev. L. 1831, ch. 21, sec. 1. Rev. Stat. 1838, ch. 22, sec. 1. Rev. Stat. 1843, ch. 7, secs. 67, 74. 1 Rev. Stat. 1852, ch. 104, sec. 2. Acts 1865, ch. 3. 1 Rev. Stat. 1852, Acts 1865, 1919; Burns 49-3101; Baldwin 5548.

<sup>147</sup> Acts 1863, ch. 10, sec. 4. Acts 1869, ch. 8, sec. 4. Acts 1903; Burns 36-2003; Baldwin 9193. Acts 1913; Burns 36-2001; Baldwin 9191.

<sup>148</sup> Acts 1921; Burns 59-506(2); Baldwin 10827(2).

<sup>149</sup> Acts 1917; Burns 22-3218; Baldwin 4519.

<sup>150</sup> Rev. Stat. 1843, 1 Rev. Stat. 1852, Acts 1899; Burns 52-205; Baldwin 13373.

<sup>151</sup> Acts 1925; Burns 69-106; Baldwin 16337.

<sup>152</sup> Acts 1836-27, ch. 72, sec. 4. 1 Rev. Stat. 1852, ch. 12, sec. 15. Acts 1873; Burns 49-140; Baldwin 13091.

<sup>153</sup> Rev. Stat. 1843, ch. 7, sec. 87. 1 Rev. Stat. 1852; Burns 49-3115; Baldwin 5562.

<sup>154</sup> Acts 1865; Burns 28-2420; Baldwin 5980.

<sup>155</sup> 1 Rev. Stat. 1852; Burns 49-405; Baldwin 13104.

Auditor. Acts 1840-41 (general), ch. 2, sec. 5. Rev. Stat. 1843, ch. 7, secs. 49, 50.

County Assessor. Rev. Stat. 1843, ch. 7, sec. 61. Acts 1915, ch. 116, sec. 1. Acts 1919, 1921; Burns 64-1101; Baldwin 15696.



appointed to office by the board of commissioners,<sup>156</sup> the township trustee,<sup>157</sup> and certain other township officers.<sup>158</sup> Appointments made by the board are certified by the auditor.<sup>159</sup>

The members of the board of commissioners are ex officio members of the county board of finance.<sup>160</sup> The president of the board of commissioners is an ex officio member of the commission of public records.<sup>161</sup> The three county commissioners are members of the county hospital governing board when such board exists, and serve with eight members appointed by the judge of the circuit court.<sup>162</sup> Members of the board of commissioners served on the county board of equalization from 1841 until 1891.<sup>163</sup>

The county council and the board of commissioners, acting together, approve the acceptance of lands donated to the county for purposes of a public forest;<sup>164</sup> could grant aid for maintenance of a forest owned by a forestry association from 1913 until 1935;<sup>165</sup> hold hearings on petitions for the condemnation of school buildings as unfit for use, and decide for or against such condemnation, subject to appeal to the circuit court;<sup>166</sup> determine, on proper petition, the order in which county road projects shall be established and constructed, in the event two or more petitions for such projects are on file with the auditor at the same time;<sup>167</sup> and rebuild courthouses and

Treasurer. Acts 1817-18 (general), ch. 44, sec. 3. Acts 1840-41 (general), ch. 4, sec. 4. Rev. Stat. 1843, ch. 7, secs. 74, 87. Acts 1845-46 (general), ch. 2, sec. 1. 1 Rev. Stat. 1852, Acts 1865, 1919; Burns 49-3101; Baldwin 5548.

Notice of resignations. 1 Rev. Stat. 1852; Burns 49-206; Baldwin 13100.

<sup>156</sup> See the authorities cited above for the appointment of officers by the board of commissioners.

Resignations. 1 Rev. Stat. 1852; Burns 49-205; Baldwin 13099.

<sup>157</sup> 1 Rev. Stat. 1852, ch. 110, sec. 17. Acts 1859, 1933; Burns 65-106; Baldwin 16063.

<sup>158</sup> Acts 1840-41 (general), ch. 2, sec. 5. Rev. Stat. 1843, ch. 7, secs. 49, 50. 1 Rev. Stat. 1852, ch. 115, sec. 4. Acts 1859, ch. 133, sec. 9. Acts 1933, ch. 150, sec. 1.

<sup>159</sup> 1 Rev. Stat. 1852; Burns 49-204; Baldwin 13098.

<sup>160</sup> Acts 1937; Burns, 1941 suppl., 61-629; Baldwin, 1937 suppl., 13844-50. See the essay entitled "Board of Finance."

<sup>161</sup> Acts 1939, ch. 91, sec. 1. See the essay entitled "Commission of Public Records."

<sup>162</sup> Acts 1903, 1939; Burns, 1941 suppl., 22-3203; Baldwin, 1939 suppl., 4509.

<sup>163</sup> Acts 1838-39 (general), ch. 14, secs. 5, 14, 15. Acts 1840-41 (general), ch. 1, secs. 9, 13, 18; ch. 5, sec. 14. Rev. Stat. 1843, ch. 12, sec. 42. 1 Rev. Stat. 1852, ch. 6, secs. 58, 91; ch. 35, sec. 2. Acts 1867, ch. 110, sec. 2. Acts 1872 (Spec. Sess.), ch. 37, secs. 150, 277, 278. Acts 1881 (Spec. Sess.), ch. 96, sec. 129. Acts 1891, ch. 99, sec. 114.

<sup>164</sup> Acts 1929; Burns 32-105; Baldwin 4879.

<sup>165</sup> Acts 1913, ch. 13, sec. 4. Acts 1935, ch. 27, sec. 1.

<sup>166</sup> Acts 1931; Burns 28-3001 to 28-3006; Baldwin 6143 to 6148.

<sup>167</sup> Acts 1931; Burns 36-327 to 36-331; Baldwin 8751 to 8755.

jails destroyed by fire or windstorm, and issue bonds to defray the expense thereof.<sup>168</sup>

Formerly the board of commissioners could appoint appraisers (taxes, 1841 to 1872),<sup>169</sup> assessors (taxes, 1836 to 1841),<sup>170</sup> a clerk of the board of turnpike directors (1876 to 1913),<sup>171</sup> a commissioner of the 3 percent fund (1836 to 1853),<sup>172</sup> a county agent (1836 to 1853),<sup>173</sup> constables (1836 to 1853),<sup>174</sup> a county surveyor (1843 to 1851),<sup>175</sup> drainage commissioners and appraisers (1863 to 1933),<sup>176</sup> election inspectors (1836 to 1929),<sup>177</sup> a librarian and a treasurer for

<sup>168</sup> Acts 1935; Burns, 1941 suppl., 26-2011; Baldwin, 1935 suppl., 5240-1.

<sup>169</sup> Acts 1840-41 (general), ch. 1, secs. 1-12, 20. Rev. Stat. 1843, ch. 12, sec. 20. 1 Rev. Stat. 1852, ch. 6, secs. 44, 45. Acts 1858 (Spec. Sess.), ch. 2, sec. 1.

Office of appraiser replaced by office of county assessor. Acts 1872 (Spec. Sess.), ch. 37, secs. 107, 276.

<sup>170</sup> Rev. L. 1831, ch. 81, secs. 3, 4. Acts 1835-36 (general), ch. 7, secs. 3, 4, 35. Rev. Stat. 1838, ch. 19, secs. 1, 5; ch. 21, sec. 12. Acts 1840-41 (general), ch. 3, sec. 1.

<sup>171</sup> Acts 1879 (Spec. Sess.), ch. 115, sec. 1. Acts 1883, ch. 99, sec. 1. Acts 1893, ch. 1 63, sec. 1.

Board of turnpike directors was abolished in 1913. Acts 1913, ch. 330, secs. 1, 2. State ex rel. Bateman v. Hart, 181 Ind. 592, 105 N. E. 149 (1914).

<sup>172</sup> Acts 1832-33, ch. 58, secs. 2, 5, 6. Acts 1835-36 (general), ch. 42, sec. 2. Rev. Stat. 1838, ch. 107 (first act), secs. 2, 3. Rev. Stat. 1843, ch. 7, sec. 32. 1 Rev. Stat. 1852, chs. 44, 92. Acts 1881 (Spec. Sess.), ch. 102.

<sup>173</sup> Rev. L. 1831, ch. 85, secs. 1, 2, 4, 6, 11. Rev. Stat. 1838, ch. 93, secs. 1, 2, 4, 11. Rev. Stat. 1843, ch. 4, sec. 48; ch. 18, secs. 5, 12, 13, 17. Acts 1851-52, ch. 2.

<sup>174</sup> Rev. L. 1831, ch. 17, secs. 5, 9, 20; ch. 20, sec. 20. Rev. Stat. 1838, ch. 19, secs. 1, 5; ch. 21, secs. 20-22. Rev. Stat. 1843, ch. 4, secs. 26, 27, 160; ch. 5, secs. 70, 71. 1 Rev. Stat. 1852, ch. 115, sec. 4. 2 Rev. Stat. 1852, ch. 2, sec. 1, p. 48.

<sup>175</sup> Rev. L. 1831, ch. 102, sec. 1. Acts 1832-33, ch. 74, secs. 4, 5. Rev. Stat. 1838, ch. 103 (first act), sec. 1; ch. 103 (second act), secs. 4, 5. Rev. Stat. 1843, ch. 4, sec. 48; ch. 10, sec. 1.

<sup>176</sup> Acts 1863, ch. 27, sec. 1. Acts 1867, ch. 99, sec. 1. Acts 1873, ch. 66, sec. 13. Acts 1875, ch. 64, secs. 2, 5. Acts 1879 (Spec. Sess.), ch. 121, sec. 1. Acts 1883, ch. 132, secs. 2, 6. Acts 1885 (Spec. Sess.), ch. 40, sec. 1. Acts 1889, ch. 67, sec. 13. Acts 1891, ch. 196, sec. 3. Acts 1893, ch. 146, sec. 3. Acts 1901, ch. 235, secs. 1, 2. Acts 1905, ch. 157, secs. 1, 14. Acts 1907, ch. 252, sec. 1. Acts 1933, ch. 264, sec. 81.

<sup>177</sup> Rev. L. 1831, ch. 20, sec. 20; ch. 33, sec. 5. Rev. Stat. 1838, ch. 21, secs. 20, 22. Rev. Stat. 1843, ch. 4, secs. 26, 27; ch. 5, secs. 69, 71. 1 Rev. Stat. 1852, ch. 31, secs. 3, 4. Acts 1877 (Spec. Sess.), ch. 15, sec. 4. Acts 1881 (Spec. Sess.), ch. 47, sec. 11. Acts 1889, ch. 87, sec. 4.

These laws were superseded as to primary elections by an act of 1915 and as to general elections by an act of 1929. Acts 1915, ch. 105, secs. 5, 7. Acts 1929, ch. 150.

the county library,<sup>178</sup> liquor agents (1855 to 1859),<sup>179</sup> a matron for pauper children (1831 to 1936),<sup>180</sup> overseers of the poor (1836 to 1853),<sup>181</sup> a poundkeeper (1836 to 1853),<sup>182</sup> road commissioners (1836 to 1865),<sup>183</sup> road superintendent (1879 to 1933),<sup>184</sup> road supervisors (township or district, 1836 to 1853),<sup>185</sup> school examiners (1853 to 1873),<sup>186</sup> school superintendents and trustees (lands and funds, 1836 to 1853),<sup>187</sup> a tax collector (1836 to 1841),<sup>188</sup> tobacco inspectors (1836 to 1857),<sup>189</sup> a treasurer (1836 to 1841),<sup>190</sup> two members of each township board of registry (1867 to 1869),<sup>191</sup> a board of visitors (three members) for examination of homes where

<sup>178</sup> Acts 1845-46 (general), ch. 9.

<sup>179</sup> Acts 1855, ch. 105, secs. 5, 7. Acts 1858 (Spec. Sess.), ch. 15, sec. 1.

<sup>180</sup> Acts 1881 (Spec. Sess.), ch. 81, secs. 1, 2, 5. Acts 1936 (Spec. Sess.), ch. 3, secs. 5, 24, 129.

<sup>181</sup> Rev. L. 1831, ch. 20, sec. 20. Rev. Stat. 1838, ch. 21, secs. 20-22; ch. 79, secs. 1, 9. Rev. Stat. 1843, ch. 4, secs. 26, 27, 160; ch. 5, secs. 69-71. 1 Rev. Stat. 1852, ch. 81, secs. 1, 2; ch. 110, secs. 5, 17.

<sup>182</sup> Rev. L. 1831, ch. 20, sec. 27. Rev. Stat. 1838 (first act), ch. 21, sec. 27. Rev. Stat. 1843, ch. 4, sec. 49; ch. 7, sec. 20. 1 Rev. Stat. 1852, ch. 92.

<sup>183</sup> Acts 1822-23, ch. 25, sec. 5. Rev. Stat. 1838, ch. 91, secs. 67, 75, 79. Rev. Stat. 1843, ch. 16, sec. 6. 1 Rev. Stat. 1852, ch. 48, secs. 1-4. Acts 1865 (Spec. Sess.), ch. 29, secs. 2, 3.

<sup>184</sup> Acts 1879 (Spec. Sess.), ch. 115, sec. 1. Acts 1883, ch. 99, sec. 1. Acts 1885 (Spec. Sess.), ch. 57, secs. 9, 10. Acts 1889, ch. 85, sec. 8; ch. 234, sec. 11. Acts 1901, ch. 202, sec. 2. Acts 1903, ch. 145, sec. 9. Acts 1905, ch. 167, secs. 51, 79, 87. Acts 1913, ch. 330, sec. 1. Acts 1921, ch. 95. Acts 1933, ch. 19, sec. 2.

<sup>185</sup> Rev. L. 1831, ch. 20, sec. 20. Rev. Stat. 1838 ch. 21, sec. 22. Acts 1839-40 (general), ch. 4, sec. 10. Rev. Stat. 1843, ch. 4, secs. 27, 160; ch. 5, sec. 71. 1 Rev. Stat. 1852, ch. 102, secs. 1-4.

<sup>186</sup> Acts 1853, ch. 106, sec. 6 (1). Acts 1855, ch. 86, sec. 146. Acts 1861, ch. 41, sec. 32. Acts 1865, ch. 1, sec. 33. Acts 1873, ch. 25, sec. 2.

<sup>187</sup> Rev. L. 1831, ch. 90, secs. 1, 28. Acts 1832-33, ch. 46, sec. 1; ch. 70, secs. 4, 25. Rev. Stat. 1838, ch. 21, sec. 25; ch. 94 (2), sec. 2; ch. 98, secs. 1, 28. Acts 1840-41 (general), ch. 11(2), sec. 2. Rev. Stat. 1843, ch. 14, sec. 31. 1 Rev. Stat. 1852, ch. 97.

<sup>188</sup> Rev. L. 1831, ch. 81, secs. 17, 18. Acts 1835-36 (general), ch. 7, secs. 32, 35. Acts 1840-41 (general), ch. 4, secs. 1, 13-22.

<sup>189</sup> Rev. L. 1831, ch. 50, sec. 6. Rev. Stat. 1838, ch. 53. Rev. Stat. 1843, ch. 27, ch. 7. 1 Rev. Stat. 1852, ch. 55, sec. 1.

The power to appoint tobacco inspectors was transferred to the judge of the circuit court in 1857. Acts 1857; Burns 67-308; Baldwin 9461.

<sup>190</sup> Rev. L. 1831, ch. 21, secs. 1, 6. Rev. Stat. 1838, ch. 22, secs. 1, 6. Acts 1840-41 (general), ch. 4, secs. 1, 34.

<sup>191</sup> Acts 1867, ch. 51, sec. 2. Acts 1869 (Spec. Sess.), ch. 31, sec. 1.

pauper children were kept (1881 to 1936),<sup>192</sup> and township agents to disburse money for certain relief to soldiers, sailors, marines, and their families (1865 and 1866).<sup>193</sup>

Formerly the board of commissioners drew orders on the county treasurer and had them attested by the clerk of the board (1836 to 1841);<sup>194</sup> required the making of tax lists by tax officials, received and corrected these lists, and reviewed tax assessments (1836 to 1841);<sup>195</sup> made all county tax levies and rates before 1899;<sup>196</sup> fixed the rate of dog tax from 1925 until 1937;<sup>197</sup> could levy a tax for maintenance of ditches and drains from 1915 until 1917;<sup>198</sup> authorized certain tax levies by township trustees (1859 to 1899);<sup>199</sup> granted certain exemptions from poll taxes (1836 to 1919),<sup>200</sup> road taxes (1843 to 1853),<sup>201</sup> and property taxes (1849 to 1853);<sup>202</sup> directed tax officials to prepare, post, and distribute lists of delinquent taxes (1836 to 1853);<sup>203</sup>

<sup>192</sup> Acts 1881 (Spec. Sess.), ch. 81, sec. 8. Acts 1936 (Spec. Sess.), ch. 3, secs. 5, 24, 129.

<sup>193</sup> Acts 1865, ch. 40, secs. 8, 10, 16.

<sup>194</sup> Rev. L. 1831, ch. 21, sec. 15. Rev. Stat. 1838, ch. 21, sec. 15. Acts 1840-41 (general), ch. 2, sec. 11.

<sup>195</sup> Rev. L. 1831, ch. 20, sec. 9; ch. 81, secs. 5, 8, 14, 16, 27. Acts 1833-34, ch. 220, secs. 8, 9. Acts 1834-35 (general), ch. 11, secs. 18, 19, 23, 28. Acts 1835-36 (general), ch. 7, secs. 5, 7, 17, 18, 25, 28, 29. Acts 1836-37 (general), ch. 60, sec. 1. Acts 1838-39 (general), ch. 14, sec. 15; ch. 58, sec. 2. Acts 1840-41 (general), ch. 9, sec. 4.

<sup>196</sup> Rev. L. 1831, ch. 20, sec. 9; ch. 69, secs. 25, 27; ch. 81, secs. 2, 13. Rev. Stat. 1838, ch. 21, sec. 9; ch. 79, sec. 29. Rev. Stat. 1843, ch. 16, sec. 59; ch. 19, secs. 36, 43. Acts 1848-49 (general), ch. 109, sec. 60. 1 Rev. Stat. 1852, ch. 6, sec. 1; ch. 20, secs. 13, 21, 22, 28; ch. 81, secs. 29, 35. Acts 1861, ch. 95. Acts 1861 (Spec. Sess.), ch. 12, sec. 3. Acts 1875, ch. 7, sec. 4. Acts 1885 (Spec. Sess.), ch. 5. Acts 1895, ch. 96, sec. 12.

County council now has general power to make tax levies and rates. Acts 1899; Burns 26-515; Baldwin 5379.

<sup>197</sup> Acts 1925, ch. 144, sec. 1. Acts 1927, ch. 176, secs. 1, 14. Acts 1937, ch. 133, sec. 16.

<sup>198</sup> Acts 1915, ch. 107, sec. 23. Acts 1917, ch. 124, sec. 10.

<sup>199</sup> Acts 1859, ch. 133, sec. 8. Acts 1863, ch. 16, sec. 1. Acts 1865 (Spec. Sess.), ch. 28, sec. 20. Acts 1867, ch. 64. Acts 1873, ch. 99. Acts 1879 (Spec. Sess.), ch. 95, sec. 3. Acts 1881 (Spec. Sess.), ch. 63, sec. 3. Acts 1899, 1917; Burns 65-301; Baldwin 16102.

<sup>200</sup> Rev. L. 1831, ch. 81, secs. 1, 2. Rev. Stat. 1838, ch. 21, sec. 36. Rev. Stat. 1843, ch. 7, sec. 33. 1 Rev. Stat. 1852, ch. 20, sec. 30 (repealed by Acts 1919, ch. 59, sec. 2). Op. Atty. Gen. 1936, p. 83.

<sup>201</sup> Rev. Stat. 1843, ch. 16, sec. 102. Acts 1848-49 (general), ch. 109, sec. 100. Acts 1849-50 (general), ch. 224, sec. 2. 1 Rev. Stat. 1852, ch. 102, sec. 9.

<sup>202</sup> Acts 1848-49 (general), ch. 106. 1 Rev. Stat. 1852, chs. 6, 92.

<sup>203</sup> Rev. L. 1831, ch. 81, sec. 33. Acts 1843-44 (general), ch. 113. Acts 1846-47 (general), ch. 30, sec. 5. 1 Rev. Stat. 1852, ch. 92.



charged and remitted tax penalties (1836 to 1843);<sup>204</sup> could make allowances to owners of property wrongfully seized, sold, or destroyed by any officer acting under the liquor laws (1859 to 1917);<sup>205</sup> directed the administration of county poor relief (1836 to 1936);<sup>206</sup> could provide and maintain a house for the accommodation of the children placed under the custody and control of the board of children's guardians (1901 to 1936);<sup>207</sup> furnished record books to justices of the peace (1877 to 1899);<sup>208</sup> audited the books and accounts of all officers handling county funds (1836 to 1909);<sup>209</sup> audited the warrants of township trustees and reported thereon to the circuit court (1897 to 1899);<sup>210</sup> received reports from the judge of the circuit court concerning his examination of the office of the

<sup>204</sup> Rev. L. 1831, ch. 81, sec. 27. Rev. Stat. 1843, ch. 12, sec. 66.

<sup>205</sup> Acts 1859, ch. 68. Acts 1917, ch. 4, secs. 26, 40.

<sup>206</sup> Rev. L. 1831, ch. 69. Rev. Stat. 1838, ch. 79. Rev. Stat. 1843, ch. 19. 1 Rev. Stat. 1852, ch. 3, sec. 8; ch. 81. Acts 1857, ch. 8. Acts 1889, ch. 78, sec. 3. Acts 1899, ch. 76; ch. 90, secs. 3, 6; ch. 154, sec. 33. Acts 1901, ch. 147. Acts 1903, ch. 144. Acts 1933, ch. 36. Acts 1936 (Spec. Sess.), ch. 3. Wayne Twp. v. Brown, 205 Ind. 437, 186 N. E. 841 (1933).

Children. Rev. L. 1824, ch. 72, sec. 6. Rev. Stat. 1838, ch. 79, secs. 6, 11. 1 Rev. Stat. 1852, ch. 81, secs. 28, 32; ch. 68, sec. 3. Acts 1875, ch. 119, secs. 1, 2. Acts 1881 (Spec. Sess.), ch. 81. Acts 1885 (Spec. Sess.), chs. 9, 34. Acts 1889, ch. 107, sec. 1. Acts 1891, ch. 62, sec. 1. Acts 1897, ch. 40. Acts 1901, ch. 173, sec. 5. Acts 1903, ch. 247.

Insane. Acts 1817-18 (general), ch. 63, sec. 5. Rev. Stat. 1838, ch. 52, sec. 3. Rev. Stat. 1843, ch. 46, sec. 181. 1 Rev. Stat. 1852, ch. 81, sec. 8. Acts 1901, ch. 195.

Blind. Acts 1839-40 (general), ch. 51. Acts 1849-50 (general), ch. 13. Acts 1857, ch. 8.

Old-age pensions. Acts 1933, ch. 36 (repealed by Acts 1936 (Spec. Sess.), ch. 3, sec. 129).

<sup>207</sup> Acts 1901, 1919, 1923; Burns 22-2806; Baldwin 5689. Acts 1933; Burns 28-2207; Baldwin 4447. Acts 1936 (Spec. Sess.), 1937; Burns, 1941 suppl., 52-1121; Baldwin, 1937 suppl., 14078-22.

<sup>208</sup> Acts 1877 (Spec. Sess.), ch. 23. Acts 1899, ch. 154, sec. 33.

<sup>209</sup> Rev. L. 1831, ch. 69, sec. 26; ch. 75, sec. 7; ch. 85, sec. 8; ch. 86, secs. 50, 52; ch. 90, secs. 4, 20, 21. Rev. Stat. 1838, ch. 17, sec. 11; ch. 22, sec. 2; ch. 79, secs. 4, 27, 30; ch. 83, sec. 7; ch. 93, sec. 8; ch. 94(2), secs. 13, 15; (3), sec. 5; (5), sec. 21; (6), sec. 7; ch. 95, sec. 6; ch. 98, secs. 4, 7; ch. 107(2), sec. 1; (3), secs. 1, 3. Rev. Stat. 1843, ch. 7, secs. 14, 78; ch. 13, sec. 100; ch. 15, secs. 117-120; ch. 19, secs. 31, 32. Acts 1845-46 (general), ch. 48. 1 Rev. Stat. 1852, ch. 6, secs. 121, 122; ch. 81, secs. 22, 23 (repealed by Acts 1881 (Spec. Sess.), ch. 81, sec. 13); ch. 98, secs. 63, 65, 121-125. Acts 1859, ch. 133, sec. 14. Acts 1861, ch. 41, secs. 18, 149-151. Acts 1893, ch. 88, sec. 4; ch. 146, sec. 21. 1 Rev. Stat. 1852, Acts 1935; Burns, 1941 suppl., 26-620; Baldwin, 1935 suppl., 5236. Acts 1897; Burns 26-636; Baldwin 5237. Acts 1865, 1873, 1883; Burns 28-2412, 28-2418 to 28-2420; Baldwin 6498, 5978 to 5980. Acts 1895; Burns 49-1409; Baldwin 7584. 1 Rev. Stat. 1852; Burns 49-3110; Baldwin 5555. Acts 1909; Burns 60-211; Baldwin 13862. Information obtained from E. P. Brennan, State Examiner, on May 18, 1939, by W. Davis Hamilton.

<sup>210</sup> Acts 1897, ch. 144. Acts 1899, ch. 105, sec. 7.



clerk of the circuit court (1852 to 1909);<sup>211</sup> received quarterly reports from the board of county charities and corrections (1899 to 1936);<sup>212</sup> selected grand jurors (1836 to 1881) and petit jurors (1836 to 1853);<sup>213</sup> received from justices of the peace and the clerk of the circuit court lists showing judgments of fines and the amounts collected thereon and paid to county treasurer (1836 to 1853);<sup>214</sup> provided blank forms for elections (1836 to 1881);<sup>215</sup> heard and decided election contests (1836 to 1933);<sup>216</sup> supervised the sale of town lots by the county agent, and assigned various other duties for him to perform as agent of the board (1836 to 1852);<sup>217</sup> awarded scholarships to Indiana University (1836 to 1919) and Purdue University (1877 to 1935);<sup>218</sup> approved official bonds of constables (1836 to 1855),<sup>219</sup> road superintendent (1881 to 1933),<sup>220</sup> appraiser,<sup>221</sup> county assessor (1836 to 1852, 1872 to 1875),

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<sup>211</sup> 2 Rev. Stat. 1852; Burns 49-2720; Baldwin 1439.

The examination of the clerk's office is now made by the State Examiner. Acts 1909; Burns 60-211; Baldwin 13862. Information obtained from E. P. Brennan, State Examiner, on May 18, 1939, by W. Davis Hamilton.

<sup>212</sup> Acts 1899, ch. 34, secs. 3, 4. Acts 1901, ch. 183, sec. 1. Acts 1936 (Spec. Sess.), ch. 3, sec. 22.

<sup>213</sup> Rev. L. 1831, ch. 53, secs. 1, 4, 5. Rev. Stat. 1838, ch. 57, secs. 1, 4, 5. Rev. Stat. 1843, ch. 50, secs. 1, 3, 4, 7, 10. 2 Rev. Stat. 1852, ch. 9, sec. 1, p. 24; ch. 4, sec. 2, p. 387. Acts 1875 (Spec. Sess.), ch. 12. Acts 1881, ch. 69, sec. 11.

<sup>214</sup> Rev. L. 1831, ch. 54, sec. 14; ch. 90, sec. 4. Rev. Stat. 1843, ch. 13, secs. 80-83. 1 Rev. Stat. 1852, ch. 92.

<sup>215</sup> Rev. L. 1831, ch. 32, secs. 1, 19. Rev. Stat. 1838, ch. 32, sec. 1. Rev. Stat. 1843, ch. 5, sec. 25. 1 Rev. Stat. 1852, ch. 31, sec. 11. Acts 1855, ch. 66. Acts 1881 (Spec. Sess.), ch. 47, sec. 13.

<sup>216</sup> Rev. L. 1831, ch. 32, secs. 8, 9, 22, 23; ch. 58, sec. 1. Rev. Stat. 1838, ch. 32, secs. 34, 35. Rev. Stat. 1843, ch. 5, sec. 86. 1 Rev. Stat. 1852, ch. 31, secs. 16-23. Acts 1881 (Spec. Sess.), ch. 47, secs. 83, 84. Acts 1933, ch. 242.

<sup>217</sup> Rev. L. 1831, ch. 85, secs. 1, 2, 4, 7-9. Rev. Stat. 1838, ch. 93, secs. 4, 8, 9. Rev. Stat. 1843, ch. 18, secs. 11, 12, 17. Acts 1851-52, ch. 2, sec. 1. See the essay entitled "County Agent."

<sup>218</sup> Acts 1833-34, ch. 17. Acts 1834-35 (general), ch. 44, sec. 1. Rev. Stat. 1838, ch. 21, secs. 33, 34. Rev. Stat. 1843, ch. 7, sec. 34. Acts 1846-47 (general), ch. 39. 1 Rev. Stat. 1852, ch. 114, sec. 10. Acts 1877 (Spec. Sess.), ch. 29. Acts 1919, ch. 185, sec. 1. Acts 1935, ch. 184, secs. 1, 2.

<sup>219</sup> Rev. L. 1831, ch. 17, secs. 4, 5, 9, 21. Rev. Stat. 1838, ch. 19, secs. 4, 9. Rev. Stat. 1843, ch. 47, secs. 284, 288. Acts 1855, ch. 9.

<sup>220</sup> Acts 1881 (Spec. Sess.), ch. 63, sec. 2. Acts 1889, ch. 85, sec. 8; ch. 234, sec. 11. Acts 1901, ch. 202, sec. 2. Acts 1905, ch. 167, secs. 51, 67. Acts 1913, ch. 330, sec. 1. Acts 1921, ch. 95, sec. 1. Acts 1933, ch. 19, sec. 2.

<sup>221</sup> Acts 1840-41 (general), ch. 1, secs. 2, 20. Acts 1853 (Spec. Sess.), ch. 2.

and township assessors (1836 to 1881);<sup>222</sup> could authorize the release or substitution of sureties on the official bonds previously approved by the board of commissioners (1836 to 1843);<sup>223</sup> could authorize the county auditor to employ an administrator of the school fund, and was required to approve the official bond of such administrator (1835 to 1837);<sup>224</sup> could authorize the creation of horse thief detective associations and could expel members therefrom (1852 to 1907);<sup>225</sup> could authorize designated members of horse thief detective associations to exercise certain powers of constables (1907 to 1933);<sup>226</sup> could allow rewards for the apprehension of horse thieves (1836 to 1853);<sup>227</sup> could authorize the incorporation of cemetery associations (1875 to 1939);<sup>228</sup> assisted in the organization of agricultural societies (1836 to 1843,<sup>229</sup> allowed damages to owners of livestock killed or injured by wolves (1841 to 1843)<sup>230</sup> or dogs (1841 to 1843, 1925 to 1937);<sup>231</sup> directed the distribution of funds derived from the sale of estrays and driftage, on receiving proof of ownership (1836 to 1843);<sup>232</sup> directed the liquidation of property donated in the county for the colonization of negroes and mulattoes (1852 to 1865);<sup>233</sup> ordered the county treasurer to distribute the unexpended

<sup>222</sup> Rev. L. 1824, ch. 86, sec. 5. Rev. Stat. 1843, ch. 7, secs. 58, 62. Acts 1851-52, ch. 6, sec. 2; ch. 7, secs. 66-68. Acts 1872 (Spec. Sess.), ch. 37, sec. 107. Acts 1872 ch. 97, secs. 2, 7, 9. Acts 1881 (Spec. Sess.), ch. 96, sec. 106.

<sup>223</sup> Acts 1833-34, ch. 221. Acts 1834-35 (general), ch. 27, secs. 1-3. Rev. Stat. 1838, ch. 15, secs. 1, 2; ch. 76. Rev. Stat. 1843, ch. 4, secs. 101-135.

<sup>224</sup> Acts 1835, ch. 273. Acts 1839, ch. 153.

<sup>225</sup> 1 Rev. Stat. 1852, ch. 51, sec. 2. Acts 1865 (Spec. Sess.), ch. 95, sec. 4. Acts 1891, ch. 81, sec. 1. Acts 1907, ch. 144. Acts 1933, ch. 239.

<sup>226</sup> Acts 1907, ch. 144, sec. 8. Acts 1933, ch. 239.

<sup>227</sup> Acts 1832-33, ch. 52. Rev. Stat. 1838, ch. 21 (second act). Rev. Stat. 1843, ch. 7, sec. 24. 1 Rev. Stat. 1852, ch. 51.

<sup>228</sup> Acts 1875, ch. 11, secs. 1, 2. Acts 1879 (Spec. Sess.), ch. 13. Acts 1939, ch. 142, sec. 29.

<sup>229</sup> Acts 1834-35 (general), ch. 70, sec. 4. Rev. Stat. 1838, ch. 2 (second act), secs. 1, 4,

10. Rev. Stat. 1843, ch. 25.

<sup>230</sup> Acts 1840-41 (general), ch. 61, sec. 5. Rev. Stat. 1843, ch. 59, sec. 4.

<sup>231</sup> *Ibid.* Acts 1925, ch. 144, secs. 9, 10. Acts 1927, ch. 176, sec. 14. Acts 1929, ch.

58, sec. 1. Acts 1937, ch. 133, secs. 9, 16,

<sup>232</sup> Const. 1816, art. 12, sec. 4. Rev. L. 1831, ch. 35, secs. 8, 9. Rev. Stat. 1838, ch.

37, secs. 8, 10. Rev. Stat. 1843, ch. 21, sec. 20.

<sup>233</sup> 1 Rev. Stat. 1852, ch. 18, sec. 4. Acts 1865, ch. 17.

portion of the 3 percent fund to the trustees of the several townships;<sup>234</sup> approved privately owned homes for friendless women, to be used as places of detention under court commitments (1867 to 1869);<sup>235</sup> could authorize the construction of private bridges with authority to charge tolls (1836 to 1929); could authorize toll-road companies to locate, lay out, and construct roads (1848 to 1929);<sup>237</sup> could fix toll-bridge rates (1836 to 1929);<sup>238</sup> granted brokers' licenses (1841 to 1853);<sup>239</sup> and liquor licenses (1836 to 1918);<sup>240</sup> granted tavern licenses with privilege to sell liquor (1836 to 1853,<sup>241</sup> could order special elections under local option liquor laws (1908 to 1917);<sup>242</sup> granted licenses to sell foreign and domestic merchandise with privilege to sell liquor (1836 to 1853);<sup>243</sup> approved all bonds required in connection with licenses granted by the board;<sup>244</sup> and fixed the amount of license fees on various licenses (1836 to 1917).<sup>245</sup>

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<sup>234</sup> Acts 1881 (Spec. Sess.), ch. 102, sec. 1.

<sup>235</sup> Acts 1867, ch. 122, secs. 1, 3. Acts 1869 (Spec. Sess.), ch. 32, secs. 1, 15-18.

<sup>236</sup> Rev. L. 1831, ch. 82, sec. 68. Rev. Stat. 1838, ch. 91, sec. 63. Rev. Stat. 1843, ch. 16, sec. 65. Acts 1848-49 (general), ch. 109, sec. 66. Acts 1855, ch. 5, sec. 8. Acts 1859, ch. 14, secs. 1, 9. Acts 1929, ch. 215, sec. 73.

<sup>237</sup> Acts 1848-49 (general), ch. 97, sec. 4; ch. 98. 1 Rev. Stat. 1852, ch. 80, sec. 4. Acts 1929, ch. 215, sec. 73.

<sup>238</sup> Rev. L. 1831, ch. 26, sec. 43. Rev. Stat. 1838, ch. 41, sec. 10; ch. 91, sec. 63. Rev. Stat. 1843, ch. 16, secs. 65, 67. Acts 1859, ch. 14, sec. 9. Acts 1875, ch. 8, sec. 7. Acts 1929, ch. 215, sec. 73.

<sup>239</sup> Acts 1840-41 (general), ch. 5, sec. 6. Acts 1841-42 (general), ch. 91. Rev. Stat. 1843, ch. 12, secs. 165, 175. 1 Rev. Stat. 1852, ch. 65, secs. 1-3.

<sup>240</sup> Rev. L. 1831, ch. 81, sec. 50; ch. 105, sec. 19. Rev. Stat. 1838, ch. 105, sec. 1. Rev. Stat. 1843, ch. 25, sec. 27; ch. 59, sec. 15. 1 Rev. Stat. 1852, ch. 92, sec. 1. (19). Acts 1853, ch. 66, secs. 3, 8. Acts 1855, ch. 105, secs. 4, 5; ch. 106, sec. 1. Acts 1858 (Spec. Sess.), ch. 15. Acts 1859, ch. 130. Acts 1861, ch. 72. Acts 1873, ch. 59. Acts 1875 (Spec. Sess.), ch. 13. Acts 1889, ch. 148. Acts 1895, ch. 127. Acts 1897, ch. 167. Acts 1905, ch. 6, sec. 1. Acts 1911, ch. 119, secs. 3-5. Acts 1913, ch. 152. Acts 1915, ch. 10. Acts 1917, ch. 4, secs. 6, 7; ch. 60.

<sup>241</sup> Rev. L. 1831, ch. 81, sec. 50. Rev. Stat. 1838, ch. 105, sec. 1. Rev. Stat. 1843, ch. 59, sec. 15. 1 Rev. Stat. 1852, ch. 92.

<sup>242</sup> Acts 1909 (Spec. Sess.), ch. 2, sec. 1. Acts 1911, ch. 7, sec. 1. Acts 1917, ch. 4, sec. 40.

<sup>243</sup> Rev. L. 1831, ch. 81, sec. 50. Rev. Stat. 1838, ch. 105, sec. 4; ch. 108, sec. 19. Rev. Stat. 1843, ch. 59, sec. 15. 1 Rev. Stat. 1852, ch. 92.

<sup>244</sup> See the authorities cited in connection with the granting of licenses.

<sup>245</sup> Rev. L. 1831, ch. 21, sec. 7. Rev. Stat. 1838, ch. 22, sec. 7; ch. 105, sec. 6. Rev. Stat. 1843, ch. 12, sec. 171; ch. 59, sec. 13. 1 Rev. Stat. 1852, ch. 65, secs. 1, 2. Acts 1857, ch. 43. Acts 1917, ch. 50. See citations in footnotes in connection with the granting of licenses.

The board of commissioners has always had the power to establish, construct and maintain roads,<sup>246</sup> except that from 1879 until 1913 the board of commissioners was an ex officio board of directors for the maintenance of county roads (known as "Board of Turnpike Directors" from 1879 to 1901 and as "Board of Directors" from 1901 to 1913). This board divided the county into three districts, and each director had personal supervision of one district.<sup>247</sup> Since 1913 the surveyor, county highway superintendent (1913 to 1933), and county highway supervisor (1933 to date), acting under the control of the board of commissioners, have had charge of the construction and maintenance of county highway.<sup>248</sup>

The board adopts regulations for the transaction of business; and in the trial of causes it is required to comply, so far as practicable with the rules for conducting business in the circuit court.<sup>249</sup> Whenever, in the trial of any cause two or more members of the board are disqualified the judge of the circuit court appoints special commissioners to act in their places.<sup>250</sup> During any session of the board and while going to and returning from the same, members of the board of commissioners are privileged from arrest and from obeying any subpoena to testify.<sup>251</sup> Though appeals may be taken to the circuit court to review all judicial decisions of the board, no appeal lies from the action of the board in a purely ministerial or administrative capacity, unless a statute specifically allows it.<sup>252</sup> Appeals are specifically provided for in

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<sup>246</sup> See footnote 27 herein.

<sup>247</sup> Acts 1879 (Spec. Sess.), ch. 115, sec. 1. Acts 1895, ch. 147. Acts 1899, ch. 176, secs. 1, 2. Acts 1901, ch. 202. Acts 1905, ch. 167, sec. 85. Acts 1913, ch. 330, sec. 1.

<sup>248</sup> Acts 1901, ch. 228. Acts 1911, ch. 105. Acts 1913, ch. 40, sec. 1; ch. 330, sec. 1. Acts 1921, ch. 95. Acts 1932 (Spec. Sess.), chs. 32, 34. Acts 1933, ch. 19. Acts 1933; Burns 36-1101, 36-1110; Baldwin 8699, 8708. See the essays entitled "Surveyor" and "County Highway Supervisor."

<sup>249</sup> Rev. Stat. 1843, ch. 7, sec. 8. 1 Rev. Stat. 1852; Burns 25-617; Baldwin 5228.

<sup>250</sup> Acts 1913; Burns 26-614 to 26-616; Baldwin 5229 to 5231.

<sup>251</sup> Rev. L. 1824, ch. 78, sec. 3. Rev. Stat. 1843, ch. 52, sec. 5. 1 Rev. Stat. 1852; Burns 3-401; Baldwin 721.

<sup>252</sup> Rev. L. 1831, ch. 20, sec. 28; ch. 38, sec. 12. Rev. Stat. 1838, ch. 41, sec. 12. Rev. Stat. 1843, ch. 7, secs. 37-43. 1 Rev. Stat. 1852; Burns 26-901; Baldwin 5277. State ex rel. Starry v. Board of County Comrs., 136 Ind. 207, 35 N. E. 1100 (1893); State ex rel. Sink v. Circuit Court, 214 Ind. 323, 15 N. E. (2d) 624 (1938).



proceedings concerning claims against the county,<sup>253</sup> relocation of the county seat,<sup>254</sup> licensing of public ferries,<sup>255</sup> drainage assessments,<sup>256</sup> establishment or modification of townships,<sup>257</sup> and in road matters.<sup>258</sup>

The auditor, as clerk of the board, attends its meetings, keeps a record of its proceedings, and preserves in his office all the books and papers touching the business of the county.<sup>259</sup> Copies of the proceedings of the board, when signed and sealed by the auditor, are sufficient evidence thereof on the trial of any cause in any of the courts of this State.<sup>260</sup>

### PROCEEDINGS AND REPORTS

#### 1. COMMISSIONERS' COURT, 1864-95. 56 f. b.

Record of filing of actions in commissioner's court, showing dates of filing and hearing, number and nature of cause, names of principals, and action taken. Arr. chron. by date of filing. No index. Hdw. 10 x 5 x 6. Bsmt.strg. room.

<sup>253</sup> 1 Rev. Stat. 1852, ch. 3, secs. 9, 10. Acts 1879 (Spec. Sess.), 1885; Burns 26-820; Baldwin 5275.

<sup>254</sup> Acts 1879, ch. 15, Acts 1885 (Spec. Sess.); Burns 26-410; no Baldwin.

<sup>255</sup> 1 Rev. Stat. 1852; Burns 36-2615; Baldwin 7705.

<sup>256</sup> Acts 1873, ch. 66, sec. 21. Acts 1881 (Spec. Sess.), ch. 44, secs. 17, 18. Acts 1891, ch. 196, sec. 6. Acts 1901, ch. 235, sec. 3. Acts 1905, ch. 157, sec. 9. Acts 1907, ch. 252, sec. 17. Acts 1913, ch. 165, sec. 21. Acts 1917, ch. 124, sec. 3. Acts 1933, ch. 264, secs. 17, 81.

<sup>257</sup> Acts 1859, 1939, 1941; Burns, 1941 suppl., 26-701; Baldwin, 1941 suppl., 16055. State ex rel. Sink v. Circuit Court, 214 Ind. 323, 15 N. E. (2d) 624 (1938).

<sup>258</sup> Acts 1848-49 (general), ch. 109, secs. 56, 57. 1 Rev. Stat. 1852, ch. 48, secs. 26, 37. Acts 1867, ch. 86, sec. 6. Acts 1879 (Spec. Sess.), ch. 115, sec. 1. Acts 1885 (Spec. Sess.), ch. 57, secs. 13, 14. Acts 1889, ch. 85, sec. 12; ch. 192, sec. 3; ch. 234, sec. 16. Acts 1899, ch. 176, sec. 1. Acts 1903, ch. 145, sec. 14; ch. 165, sec. 1. Acts 1905, ch. 167, secs. 56, 123. Acts 1913, ch. 159, sec. 2. Acts 1919, ch. 112, sec. 9. Acts 1921, ch. 262, secs. 13, 14, 18. Acts 1933, ch. 27, sec. 8.

<sup>259</sup> Acts 1840-41 (general), ch. 2, sec. 8. Rev. Stat. 1843, ch. 7, secs. 5, 15-17, 53. 1 Rev. Stat. 1852; Burns 26-611, 26-621, 49-3004; Baldwin 5226, 5238, 5418.

Docketing claims. Acts 1897; Burns 26-806; Baldwin 5256.

Substitute for auditor. 1 Rev. Stat. 1852; Burns 49-3016; Baldwin 5430.

The clerk of the circuit court served as clerk of the board of commissioners until the creation of the office of auditor in 1841. Acts 1816-17, ch. 15, sec. 6. Acts 1817-18 (general), ch. 41, sec. 6. Rev. L. 1824, ch. 15, sec. 5; ch. 16, sec. 6. Acts 1828-29, ch. 17, sec. 6. Rev. L. 1831, ch. 20, secs. 5, 15. Rev. Stat. 1838, ch. 21, sec. 6. Acts 1840-41 (general), ch. 2.

<sup>260</sup> Rev. L. 1831, ch. 20, sec. 10. Rev. Stat. 1838, ch. 21, sec. 10. Rev. Stat. 1843, ch. 7, sec. 9. Acts 1859, ch. 59, sec. 1. 1 Rev. Stat. 1852; Burns 26-622; Baldwin 5232.



2. COMMISSIONERS' RECORD, 1836-. 29 vols. (A-Z, 1-3). Minutes of meetings of board of commissioners, showing date and place of meeting, names of members present, subjects discussed, and action taken. Arr. chron. by date of meeting. Also contains: Minutes of meetings of board of finance, entry 189. Indexed alph. by name of subject discussed. Hdw. 558 pp. 18 x 12 x 3. Aud. vt.

#### BOND ISSUES

3. BOND REGISTER, May 15, 1915-. 2 vols. (1, 2). Record of bond issues, showing date, nature, number, and amount of each bond; total amount of issue; interest rate; amount of interest; dates of maturity and redemption; and name of purchaser. Arr. chron. by date of bond. Hdw. 400 pp. 18 x 12 x 3. Aud. vt.

4. GRAVEL ROAD BONDS AND COUPONS, 1924-35. 4 f. b. (1-4).

Redeemed gravel road bonds and coupons, showing information as in entry 5. Arr. chron. by date of redemption. Ptd. 11 x 20 x 12. Attic strg. room.

5. ROAD BONDS AND COUPONS, 1936-. 1 f. b. and 1 bbl. Redeemed road bonds and coupons, showing dates of bond, maturity, and redemption; name of purchaser; amount and number of bond and coupon; and purpose of bond. Arr. chron. by date of bond. No index. Ptd. F. B. 10½ x 4½ x 22; bdl. 8 x 10 x 2. 1 bdl., 1936-37, attic strg. room; 1 f. b., 1938-, aud. vt.

#### BIDS AND CONTRACTS

6. BIDDERS RECORD, June 4, 1935-. 1 vol. Record of bids received for materials and equipment for county roads and courthouse offices, showing date, quantity, purpose, description of item, and unit price of bid; date bid received; name and address of successful bidder; and volume and page reference to commissioners' record, entry 2. Arr. chron. by date of bid. No index. Hdw. 268 pp. 14 x 13 x 2. Aud. off.

7. BIDS, 1926-. 1 f. b. Original bids for materials and supplies for county offices, showing information as in entry 6. Arr. chron. by date of bid. No index. Hdw. 10½ x 14 x 4½. Aud. off.

8. HIGHWAY BIDS AND CONTRACTS, 1933-. 3 f. b. Original bids of persons or firms awarded contracts to supply

county, with tools, implements, materials, and equipment for repair and maintenance of county highways, showing date of bid, name of bidder, description and unit price of items, and amount of bid. Arr. chron. by date of bid. No index. Hdw. 10½ x 4½ x 22. Aud. vt.

9. PRINTING BIDS AND CONTRACTS, 1933-39. 1 f. b. Original bids and contracts for printing for county offices, showing information as in entry 8, also date and conditions of contract. Arr. chron. by date of contract. No index. Hdw. 10½ x 4½ x 22. Aud. vt.

10. PROOF OF PUBLICATION, 1936-. 1 f. b. Newspaper clippings of legal notices, showing date and purpose of notice, date of publication, and name of newspaper. Arr. chron. by date of notice. No index. Hdw. 10½ x 14 x 4½. Aud. off.

#### CLAIMS AND ALLOWANCES

11. COMMISSIONERS' CLAIMS, 1896-97, 1906-. 6 pasteboard boxes and 9 f. b. (dated). Title varies: Com Court Records, 1896-97, 1 f. b. Original claims allowed by board of commissioners, showing date, nature, number, and amount of claim; date and amount of allowance; date of filing; warrant number; and name of claimant. Arr. chron. by date of filing. Hdw. Pasteboard boxes 6 x 24 x 13 to 17 x 30 x 13; 8 f. b., 1906-, 10½ x 4½ x 22, 1 f. b., 1896-97, 10½ x 20 x 12. 6 pasteboard boxes, 1906-36 and 1 f. b., 1896-97, attic strg. room; 8 f. b. 1906-, aud. vt.

12. REGISTER OF ALLOWANCES, June 6, 1859-Dec. 31, 1911. 4 vols. (1 vol. unlabeled; 2-4). Register of allowances on claims filed, showing date and amount of allowance, amount and nature of claim, date of filing, and name of payee. Arr. chron. by date of allowance. No index. Hdw. 600 pp. 18 x 14 x 3. Attic strg. room.

13. CLAIMS AND ALLOWANCE RECORD, 1912-. 6 vols. (1-6). Record of warrants drawn on treasurer for claims allowed by the board of commissioners, showing date and number of warrant; dates, nature, and amounts of claim and allowances; and name of payee. Arr. chron. by date of warrant. No index. 640 pp. 16 x 12 x 3. 3 vols., 1912-32, attic strg. room; 3 vols., 1933-, aud. vt.

14. BURIAL RECORD OF SOLDIERS, SAILORS, MARINES, Mar. 2, 1891-Apr. 12, 1915. 1 vol. (1).

Record of expenditures for burial of soldiers, sailors, and marines showing dates of enlistment, discharge, and death; name, age, and occupation and service record of deceased; date and place of burial; name of township and trustee; and total expense of burial. Arr. alph. by name of t. Indexed alph. by name of deceased. Hdw. 400 pp. 18 x 12½ x 1½. Attic strg. room.

#### PUBLIC IMPROVEMENTS

15. ROAD RECORD, 1837-1928. 3 vols. (2 vols. unlabeled; 1).

Record of roads constructed, showing date of construction, location and description of road, name of road and kind of material used. Arr. chron. by date of construction. Hdw. 440 pp. 18 x 12 x 2. Aud. vt.

16. BRIDGES, 1874-95, 1939-. 1 f. b. (125) and 1 bdl.

Original estimates and specifications for construction of bridges, showing dates of instrument and filing; name and location of bridge; estimated cost; and specifications. Arr. chron. by date of filing. No index. Hdw. 1874-95; typed 1939-. 1 f. b., 10 x 6 x 5, 1874-95, bsmt. strg. room; 1 bdl., 14 x 10½ x 3½, 1939-, aud. vt.

17. REGISTER OF BRIDGES, Sept. 12, 1885-Oct. 5, 1915.

1 vol. (1).

Register of construction of bridges showing dates of contract and acceptance; names of township, highway and stream; section, township, and range lines; name of contractor; length, width, and description of bridge; and cost of construction. Arr. chron. by date of contract. No index. Hdw. 400 pp. 18 x 12 x 2. Aud. vt.

18. ROADS [Viewers Reports], Dec. 3, 1928-Apr. 28, 1939.

3 bdls.

Reports by viewers and engineers to board of commissioners on repair and maintenance of roads, showing dates of report and filing; names of township, road, and viewer or engineer; and estimated cost. Arr. chron. by date of filing. No index. Typed. 14 x 9½ x 1½. Aud. vt.

19. PETITIONS TO VACATE AND LOCATE HIGHWAYS, 1921-. 7 f. b.

Original petitions for locating and vacating public roads, showing date and purpose of petition, names of petitioners and road, location and description of road, and material used. Arr. chron. by date of petition. No index. Hdw. and typed. 10½ x 4½ x 22. Aud. vt.

20. DRAINAGE RECORD [Ditch Petition], 1884-. 28 f. b. Transcripts of actions and proceedings on petitions for construction, cleaning and repair of ditches, showing date action taken; nature of petition; cause number; names of petitioners, landowners involved, and ditch; and location of ditch. Arr. chron. by date action taken. Indexed alph. by name of ditch. Hdw. 10 x 5 x 14. Aud. vt.

21. SURVEYOR'S CERTIFICATE OF DITCHES, 1879-1910. 20 f. b. (dated).

Transcripts of actions and proceedings on petitions filed for locating and constructing ditches and drains, showing date and nature of petition; date of proceedings, remonstrance, and viewers report; names of petitioners, remonstrators, viewers, and ditch or drain; location of proposed ditch or drain; and court order. Arr. chron. by date of proceedings. No index. Hdw. 10 x 6 x 5. Bsmt. strg. room.

#### LIQUOR RETAILERS' BONDS

22. BOND RECORD, Dec. 2, 1867-Dec. 27, 1917. 5 vols. (2 vols. unlabeled; 4, 3, 2). Title varies: Retailers Bond Record, Dec. 2, 1867-June 12, 1895, 2 vols. Discontinued as county record 1918; kept by State Excise Director, 1933-34; Alcoholic Beverage Commission of Indiana, 1935-.

Record of bonds posted by retailers of intoxicating liquors, showing dates of bond and filing, names and addresses of retailer and sureties, amount and conditions of bond, and location and description of place of business. Arr. chron. by date of filing. Indexed alph. by name of retailer. Hdw. Aver. 450 pp. 17 x 12 x 2. Attic strg. room.

#### MISCELLANEOUS RECORDS

23. INSURANCE, 1832-96. 1 f. b. (127).

Insurance policies on county buildings, showing dates of policy and expiration; names and addresses of insurance company, agent, and building insured; location and description of building; amounts of policy and premium; and rate and conditions of policy. Arr.

chron. by date of policy. No index. Typed. 10 x 6 x 5. Bsmt. strg. room.

24. INSURANCE, FIRE, TORNADO, AND SUPPLEMENTARY, 1940-  
16 policies.

Insurance policies on courthouse, jail, and county farm machinery, showing dates of policy and expiration; names of insurance company, agent, and county building insured; amounts of premium and policy; and conditions of policy. Arr. chron. by date of policy. No index. Typed. 16 x 8½ x ¼. Aud. off.

25. EXPENDITURES AUDITED, June 1, 1863-May 31, 1867.  
1 vol.

Register of audited expenditures of county, showing date and number of order; name of payee; fees and salaries of officials, grand and petit jurors, bailiffs, and attorneys; amounts of expenditures for public building, roads and highways, elections, poor, criminal expense, coroners inquests, specific allowances, books, stationery, assessing revenue; blind and insane, fuel, bridges, military purposes, printing, redemption of lands, interest on county orders, taxes refunded, incidental items, and commissioners fees; and total. Arr. chron. by date of order. No index. Hdw. 500 pp. 17 x 16 x 2. Attic strg. room.

26. MONTHLY REPORT OF PROSECUTING ATTORNEY, 1932-.

1 f. b.

Monthly reports of appearances made and fees collected by prosecuting attorney to county board of commissioners, showing date of report and appearance name of court, title and number of cause, and date and amount of fees collected. Arr. chron. by date of collection. No index. Typed. 13 x 10 x 4. Aud. off.

27. BLUE PRINTS OF COUNTY JAIL AND COUNTY FARM, 1876-1913. 2 f. b.

Blueprints of county jail, county farm, horse and dairy barn, and asylum for the poor, showing date of blueprint, name and location of building, and plans and specifications of construction. Arr. chron. by date of blueprint. No index. Handdrawn. 10½ x 4½ x 22. Aud. vt.



## COUNTY COUNCIL

## EVOLUTION AND STRUCTURAL ORGANIZATION

The county council has existed in Fulton County ever since 1899 under the requirements of an act of 1899, commonly referred to as the County Reform Law.<sup>1</sup> The council is composed of seven members. Each councilman is elected for a term of 4 years, and holds his office until his successor has been elected and qualified. The county is divided by the board of commissioners into four councilmanic districts; and one councilman is elected by the voters of each diatrict. Three councilmen at large are elected by the voters of the whole county.<sup>2</sup> Each councilman receives a certificate of election from the clerk of the circuit court and is not commissioned by the Governor.<sup>3</sup> Members of the first council were appointed in 1899 by the judge of the circuit court.<sup>4</sup> The county auditor, in person or by deputy, serves as clerk of the county council.<sup>5</sup> At an organization meeting held on the second Saturday after its election, the council chooses from its members a presiding officer *pro tem*, who serve for the terms of their respective offices as councilmen.<sup>6</sup>

Each member must have been an inhabitant of the county during 1 year next preceding the date of his election or appointment. A councilman at large must be a qualified voter and resident freeholder of the county; and each of the other members must be a qualified voter and resident freeholder of the district from which he was elected or appointed. No person can hold the office of councilman while holding any other county office or any State, township, or municipal office.<sup>7</sup> Each councilman must take an oath that he will support the State and Federal Constitutions and that he will faithfully and honestly perform his duties as councilman.<sup>8</sup>

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<sup>1</sup> Acts 1899; Burns 26-501; Baldwin 5365.

<sup>2</sup> Const. 1851, art. 15, sec. 3. Acts 1899, 1907; Burns 26-502, 26-505; Baldwin 5366, 5369.

<sup>3</sup> Const. 1851, art. 15, sec. 6. 1 Rev. Stat. 1852; Burns 49-201, 49-202; Baldwin 13095, 10296.

<sup>4</sup> Acts 1899; Burns 26-548; no Baldwin.

<sup>5</sup> Acts 1899; Burns 26-509; Baldwin 5373.

<sup>6</sup> Acts 1899, 1931; Burns 26-507; Baldwin 5371.

<sup>7</sup> Const. 1851, art. 2, sec. 9; art. 6, secs. 4, 6. Acts 1899; Burns 26-504; Baldwin 5368.

State ex rel. Workman v. Goldthait, 172 Ind. 210, 87 N. E. 133 (1909). Op. Atty. Gen. 1936, p. 412

<sup>8</sup> Const. 1851, art. 15, sec. 4. Acts 1899; Burns 26-506; Baldwin 5370. 1 Rev. Stat. 1852; Burns 49-101; Baldwin 13054.

A councilman receives a salary of \$10 per year plus \$10 for each day served at special meetings of the council.<sup>9</sup> Before 1927 there was no additional compensation for serving at special meetings.<sup>10</sup> From 1899 until 1933 the auditor was entitled to a suitable annual allowance by the county council in an amount not less than \$200 nor more than \$600 (in addition to his regular salary), for his services as clerk of the county council; but since 1933 his annual salary has been compensation for his regular duties and also his duties as clerk of the county council.<sup>11</sup>

For sufficient legal causes any councilman may be removed from office by the circuit court, after trial by jury on an accusation presented by the grand jury or verified by the oath of any person.<sup>12</sup> If any councilman be convicted of a felony the judgement of conviction must declare his office vacant.<sup>13</sup> The county council has the power to expel any councilman for disability, ineligibility, neglect to perform the duties of his office, or violation of official duties.<sup>14</sup> Any vacancy in the membership of the council is filled through appointment by the remaining members of the council at a special meeting held for that purpose. A person appointed to fill such vacancy holds office until the expiration of the term in which such vacancy occurred and until his successor is elected and qualified.<sup>15</sup>

The purpose of the General Assembly in creating the county council in 1899 was to place limits and checks on county business and on payments out of the county treasury.<sup>16</sup> Before 1899 the board of commissioners performed the duties now performed by the council.<sup>17</sup>

<sup>9</sup> Acts 1899, 1927; Burns 26-503; Baldwin 5367.

<sup>10</sup> Acts 1899, ch. 154, sec. 3.

<sup>11</sup> Acts 1899; Burns 26-509, 26-550; Baldwin 5373, 5221. Acts 1933; Burns 49-1001, 49-1004; Baldwin 7531, 7534. Op. Atty. Gen. 1934, p. 313; 1936, p. 130.

<sup>12</sup> Const. 1851, art. 2, secs. 6, 7; art. 6, sec. 8. Acts 1899; Burns 26-504; Baldwin 5368. Acts 1897, 1899; Burns 49-821 to 49-834, 49-836; Baldwin 13154 to 13166, 13050, 13168. Acts 1875; Burns 49-837; Baldwin 13052.

<sup>13</sup> Acts 1897, 1899; Burns 49-834; Baldwin 13050.

<sup>14</sup> Acts 1899; Burns 16-504, 26-512; Baldwin 5368, 5376.

<sup>15</sup> Const. 1851, art. 15, sec. 3. Acts 1899, 1907; Burns 26-505; Baldwin 5369.

<sup>16</sup> Acts 1899; Burns 26-529; Baldwin 5393. Snider v. State ex rel. Leap, 206 Ind. 474, 190 N.E. 178 (1934).

<sup>17</sup> Rev. L. 1831, ch. 20, sec. 9. Rev. Stat. 1838, ch. 21, sec. 9. Rev. Stat. 1843, ch. 12, sec. 43. Acts 1851-52, ch. 7, sec. 1. 1 Rev. Stat. 1852, ch. 6, sec. 1; ch. 20, secs. 13, 16-18, 21, 22; ch. 81, secs. 29, 35. Acts 1859, ch. 133, sec. 8. Acts 1861, ch. 95. Acts 1863, ch. 16, sec. 1. Acts 1865, ch. 39, secs. 4-7. Acts 1867, ch. 64. Acts 1875, ch. 7, sec. 4. Acts 1881, ch. 63, sec. 27.

## FUNCTIONS AND RECORDS

The county council makes appropriations of money to be paid out of the county treasurer; makes county tax levies; fixes the county tax rates; sets a township tax rate to cover cost of assessment of township taxes;<sup>18</sup> authorizes the borrowing of money for the county;<sup>19</sup> authorizes the county to purchase, sell, or convey real estate of the value of \$1,000 or more;<sup>20</sup> fixes the amounts of salaries of deputy officers and other assistants of county officers;<sup>21</sup> and appoints a member of the local alcoholic beverage board.<sup>22</sup>

In making appropriations, the council considers estimates of expenditures which are filed by all county officers with the auditor and presented by him to the council with his recommendations and proposed ordinances.<sup>23</sup> Such appropriations, tax levies, and tax rates are subject to review by the county board of tax adjustment or the Indiana Tax Board.<sup>24</sup>

In mandamus proceedings the courts can compel the county council to make appropriations and tax levies where it is the statutory duty of the council to do so; and this is true though such duty rests on the performance of a condition, if in fact that condition has been performed.<sup>25</sup>

The authorization by the council of the issuance of bonds or notes in an amount exceeding \$5,000, excepting temporary obligations, is subject to review by the Indiana Tax Board; and no bonds or notes bearing interest greater than 5 percent

<sup>18</sup> Acts 1899, 1931; Burns 26-507, 26-515, 26-519, 26-520; Baldwin 5371, 5379, 5383, 5384. Acts 1899, 1907, 1913, 1937; Burns, 1941 suppl., 26-521; Baldwin, 1937 suppl., 5385. Acts 1899, 1935; Burns, 1941 suppl., 26-522; Baldwin, 1935 suppl., 5386. Op. Atty. Gen. 1937, p. (welfare funds).

Special assessments by city against county property. Acts 1917; Burns 48-3330; Baldwin 5571. Acts 1923; Burns 48-3409; Baldwin 14623.

<sup>19</sup> Acts 1899, 1921, 1929; Burns 26-532, 26-540; Baldwin 5396, 5405.

<sup>20</sup> Acts 1903; Burns 22-3201; Baldwin 4507. Acts 1899; Burns 26-534; Baldwin 5399.

<sup>21</sup> Acts 1933, 1935, 1937; Burns, 1941 suppl., 49-1002; Baldwin, 1937 suppl., 7532.

<sup>22</sup> Acts 1935, 1937, 1941; Burns, 1941 suppl., 12-402; Baldwin, 1941 suppl., 3764-6.

<sup>23</sup> Acts 1899; Burns 26-516 to 26-520; Baldwin 5380 to 5384. Acts 1899, 1907, 1913, 1937; Burns, 1941 suppl., 26-521; Baldwin, 1937 suppl., 5385.

<sup>24</sup> Acts 1937; Burns, 1941 suppl., 64-310, 64-311; Baldwin, 1937 suppl., 15897-4, 15897-5. Acts 1919, 1920 (Spec. Sess.), 1921, 1927, 1935; Burns, 1941 suppl., 64-1331; Baldwin, 1935 suppl., 15735. O'Rourke v. Board of County Comrs., 215 Ind. 195, 18 N. E. (2d) 380 (1939).

<sup>25</sup> Acts 1899; Burns 26-528; Baldwin 5392. State ex rel. Simpson v. Meeker, 182 Ind. 240, 105 N. E. 906 (1914); State ex rel. Test v. Steinwedel, 203 Ind. 457, 180 N. E. 865 (1932); Blue v. State ex rel. Powell, 210 Ind. 486, 1 N. E. (2d) 122 (1936).

per annum can be issued without the approval of said board.<sup>26</sup>

The county council and the board of commissioners, acting together, approve the acceptance of lands given or devised to the county for purposes of a public forest;<sup>27</sup> hold hearings on petitions for the condemnation of school buildings as unfit for use, and decide for or against such condemnation, subject to appeal to the circuit court;<sup>28</sup> determine, on proper petition, the order in which county highway projects shall be established and constructed, in the event two or more petitions for such projects are on file with the auditor at the same time;<sup>29</sup> and rebuild courthouses and jails destroyed by fire or windstorm, and issue bonds to defray the expense thereof.<sup>30</sup>

It is unlawful for any councilman to be interested personally in any contract with the county or to purchase, for less than par, any bond, warrant, claim, or demand against the county.<sup>31</sup>

The county council holds a regular annual meeting on the first Tuesday after the first Monday in September of each year. Special meetings may be called by the auditor or a majority of the members of the council.<sup>32</sup> The sessions are open to the public and may continue until all business is completed.<sup>33</sup>

A majority of all the members of the council constitutes a quorum to do business, and such majority must concur in the passage of ordinances.<sup>34</sup> A greater vote is required in order to expel a member (two-thirds),<sup>35</sup> adopt appropriations for items not included in budget estimates or for amounts greater than those of the items in the budget estimates (three-fourths),<sup>36</sup> adopt appropriations at a special meeting

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<sup>26</sup> Acts 1919, 1920 (Spec. Sess.), 1921, 1923; Burns 64-1332, 64-1333; Baldwin 15736, 15737.

Citizens Bank v. Burnettsville, 98 Ind. App. 92, 179 N. E. 724 (1932).

<sup>27</sup> Acts 1929; Burns 32-105; Baldwin 4879.

<sup>28</sup> Acts 1931; Burns 28-3001 to 28-3006; Baldwin 6143 to 6148.

<sup>29</sup> Acts 1931; Burns 36-327 to 36-331; Baldwin 8751 to 8755.

<sup>30</sup> Acts 1935; Burns, 1941 suppl., 26-2011; Baldwin, 1935 suppl., 5240-1.

<sup>31</sup> Acts 1899; Burns 26-513, 26-514; Baldwin 5377, 5378.

<sup>32</sup> Acts 1899, 1931; Burns 26-507; Baldwin 5371.

<sup>33</sup> Acts 1899; Burns 26-508; Baldwin 5372.

<sup>34</sup> Acts 1899; Burns 26-511; Baldwin 5375.

<sup>35</sup> Acts 1899; Burns 26-512; Baldwin 5376.

<sup>36</sup> Acts 1899; Burns 26-520; Baldwin 5384.

(two-thirds),<sup>37</sup> and to levy taxes for the maintenance of county roads (unanimous).<sup>38</sup> The sheriff, in person or by deputy, attends the sessions of the council and executes its orders.<sup>39</sup>

The auditor, as ex officio clerk of the council, keeps in his office the files and papers of the council and a record of its proceedings.<sup>40</sup> He keeps separate accounts for each specific item of appropriation made by the council.<sup>41</sup>

28. COUNTY COUNCIL RECORD, 1899-. 3 vols. (1-3). Minutes of meetings of county council, showing date and place of meeting, names of members present, subjects discussed, and action taken. Arr. chron. by date of meeting. Indexed alph. by subjects discussed. Hdw. 500 pp. 18 x 12 x 3. Aud. off.

29. ORDINANCE OF APPROPRIATION, 1910-. 3 f. b. Original ordinances of appropriation for county expenses, showing date, amount, and purpose of ordinance, and names of members present. Arr. chron. by date of ordinance. No index. Hdw. 10 x 4 x 14. Aud. off.

30. COUNTY OFFICIAL'S, OF EXPENSES, 1920-. 6 f. b. Budget estimates by county officials, showing date of estimate and filing, names of official and office, itemized schedule of estimated expenditures, and total budget. Arr. chron. by date of filing. No index. Hdw. 10 x 4 x 14. Aud. off.

### III. CLERK OF THE CIRCUIT COURT

#### LEGAL STATUS

The office of the clerk of the circuit court has existed in Fulton County ever since 1836 under the requirements of

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<sup>37</sup> Acts 1899, 1907, 1913, 1937; Burns, 1941 suppl., 26-521; Baldwin, 1937 suppl., 5385.

<sup>38</sup> Acts 1932 (Spec. Sess.); Burns 36-905; Baldwin 8715.

<sup>39</sup> Acts 1899; Burns 26-510; Baldwin 5374.

<sup>40</sup> Acts 1899; Burns 26-509; Baldwin 5373. State ex rel. Van Der Veer v. Butcher, 205 Ind. 117, 185 N. E. 908 (1935).

<sup>41</sup> Acts 1899; Burns, 26-523; Baldwin 5387.



the Constitution of 1816 and the Constitution of 1851. The clerk of the circuit court (commonly referred to as "County clerk") is elected for a 4-year term by the voters of the county.<sup>1</sup> He is commissioned by the Governor of Indiana<sup>2</sup> and holds office until his successor is elected and qualified.<sup>3</sup>

No person is eligible to hold the office more than 8 years in any 12-year period.<sup>4</sup>

The clerk must be an elector of the county at the time of his election, must have been an inhabitant thereof during the preceeding year;<sup>5</sup> must reside within the county after his election; must not hold any other lucrative office;<sup>6</sup> must not practice law;<sup>7</sup> must post bond in an amount fixed by the board of commissioners, to be approved by that board and filed with the recorder;<sup>8</sup> and must take an oath to support the State and Federal Constitutions and faithfully discharge the duties of his office.<sup>9</sup>

Under the Constitution of 1816 the clerk was elected for a 7-year term and could hold the office of recorder.<sup>10</sup>

The clerk receives a regular salary of \$1,600 per year.<sup>11</sup> He receives \$75 for his services rendered at each general election, primary election, or special election.<sup>12</sup> For each

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<sup>1</sup> Const. 1816, art. 5, sec. 8. Const. 1851, art. 6, sec. 2. 2 Rev. Stat. 1852; Burns 49-2701; Baldwin 1427.

Fulton Organization Acts. Acts 1834-35 (general), ch. 25, sec. 8. Acts 1835-36 (general), ch 16, sec. 1.

<sup>2</sup> Const. 1816, art. 11, sec. 9. Const. 1851, art. 15, sec. 6. 1 Rev. Stat. 1852; Burns 49-201; Baldwin 13095.

<sup>3</sup> Const. 1851, art. 15, sec. 3.

<sup>4</sup> *Ibid.*, art. 2, sec. 11; art. 6, sec. 2.

<sup>5</sup> Const. 1816, art. 11, sec. 14. Const. 1851, art. 6, sec. 4.

<sup>6</sup> Const. 1816, art. 11, secs. 6, 13. Const. 1851, art. 2, sec. 9; art 6, sec. 6.

<sup>7</sup> Acts 1865, ch. 42 (misnumbered 62,) sec. 2. Acts 1881 (Spec. Sess.), ch. 37, sec. 115. Acts 1905, 1941; Burns, 1941 suppl., 10-3102; Baldwin, 1941 suppl., 2636. *McCracken v. State*, 27 Ind. 491 (1867).

<sup>8</sup> Acts 1905; Burns 10-3708; Baldwin 2660. 1 Rev. Stat. 1852; Burns 49-106, 49-120; Baldwin 13066, 13068. Acts 1851-52; Burns 49-123; Baldwin 13093. 2 Rev. Stat. 1852; Burns 49-2701; Baldwin 1427. Acts 1875; Burns 49-2703, 49-2704; Baldwin 1430, 1431.

<sup>9</sup> Const. 1851, art. 15, sec. 4. Rev. L. 1831, ch. 15, sec. 5. Acts 1905; Burns 10-3708; Baldwin 2660. 1 Rev. Stat. 1852; Burns 49-101, 49-104; Baldwin 13054, 13057.

<sup>10</sup> Const. 1816, art. 5, sec. 8; art. 11, sec. 10. Rev. Stat. 1843, ch. 4, sec. 62.

<sup>11</sup> Acts 1871, ch. 17, sec. 24. Acts 1933; Burns 49-1004; Baldwin 7534.

<sup>12</sup> Acts 1935; Burns, 1941 suppl., 29-1014; Baldwin, 1935 suppl., 7109-1.

registration blank or transfer of registration which he fills out and executes, he receives a sum fixed by the board of commissioners, not exceeding 4 cents and in addition thereto receives reasonable compensation (fixed by the board of commissioners) for additional services rendered by him as registration officer.<sup>13</sup> He is not permitted to retain, as compensation for himself, any fees collected by him, except to the extent expressly authorized by statute in the following cases: Five cents for each mile necessarily traveled in going from the clerk's office to the Governor's office, to receive State ballots, and in returning to the clerk's office; \$5 for his duties in connection with the admission or discharge of any person at any hospital for the insane, the Fort Wayne State School, the Muscatatuck State School, the Indiana Village for Epileptics, or the James Whitcomb Riley Hospital for Children; fees for services in connection with warrants issued by the State Department of Treasury for collection of gross income taxes; fees for the issuance of fish and game licenses; fees for preparing transcripts for change of venue from his county; and all fees for change of venue to his county, except for preparation of transcripts.<sup>14</sup>

For sufficient legal causes the clerk of the circuit court may be removed from office by the circuit court after trial by jury on an accusation presented by the grand jury or verified by the oath of any person.<sup>15</sup> If the clerk be convicted of a felony the judgment of conviction must declare his office vacant.<sup>16</sup>

Any vacancy in the office of clerk of the circuit court is filled through appointment by the board of commissioners. At the next biennial general election (held on the first Tuesday after the first Monday in November in the even-numbered years), a clerk is elected for the remainder of the term in

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<sup>13</sup> Acts 1933, 1935; Burns, 1941 suppl., 29-329; Baldwin 1935 suppl., 7327.

<sup>14</sup> Acts 1841-42 (general), ch. 119, sec. 1. Acts 1871, ch. 17, sec. 20. Acts 1941; Burns, 1941 suppl., 11-1404(a); Baldwin, 1941 suppl., 4836-1. Acts 1933; Burns 49-1001, 49-1005; Baldwin 7531, 7535. Acts 1933, 1937; Burns, 1941 suppl., 49-1007; Baldwin, 1937 suppl., 7537. Acts 1937; Burns 49-1301 to 49-1305; Baldwin 7561 to 7565. Acts 1919; Burns 60-722; Baldwin 4836. Acts 1933, 1937; Burns, 1941 suppl., 64-2613(a); Baldwin, 1937 suppl., 15933(a). Op. Atty. Gen. 1938, p. 303; 1939, p. 258.

<sup>15</sup> Const. 1851, art. 2, secs. 6, 7; art. 6, sec. 8. Acts 1897, 1899; Burns 49-821 to 49-834, 49-836; Baldwin 13154 to 13166, 13050, 13168. Acts 1875; Burns 49-837; Baldwin 13052.

<sup>16</sup> Acts 1897, 1899; Burns 49-834; Baldwin 13050.

which the vacancy occurred. The person appointed or elected to fill a vacancy must take oath and post bond, as was required of his predecessor, and holds office until his successor is elected and qualified.<sup>17</sup>

The clerk may appoint one deputy and one or more assistants under authority from the board of commissioners. The county council fixes their salaries, which must be not less than \$75 nor more than \$125 per month.<sup>18</sup> The clerk may require the deputy to give bond.<sup>19</sup> The deputy must take oath required of the clerk, may perform all the official duties of the clerk, and is subject to the same regulations and penalties.<sup>20</sup> The clerk may remove such deputy and assistants at any time, and is responsible for their official acts.<sup>21</sup>

#### FUNCTIONS AND RECORDS

The clerk of the circuit court files and keeps a record of official bonds and oaths of certain county and township officers. He approves some of these bonds and administers some of these oaths.<sup>22</sup> He approves and files the official bonds of notaries public, and he administers and files their

<sup>17</sup> Const. 1851, art. 6, sec. 9. Acts 1881 (Spec. Sess.); Burns 29-701; Baldwin 7081. 1 Rev. Stat. 1852; Burns 49-405, 49-408, 49-409; Baldwin 13104, 13106, 13107. *Douglass v. State ex rel. Wright* 31 Ind. 429 (1869). Op. Atty. Gen. 1936, p. 9. Information obtained from Omer Stokes Jackson, Attorney General of Indiana, on July 11, 1939, by W. Davis Hamilton.

<sup>18</sup> Acts 1871, ch. 17, sec. 25. 1 Rev. Stat. 1852, Acts 1855, 1925; Burns 49-501; Baldwin 13108. Acts 1933, 1935, 1937; Burns, 1941 suppl., 49-1002; Baldwin, 1937 suppl., 7532. Op. Atty. Gen. 1934, p. 256; 1937, p. 324.

<sup>19</sup> 1 Rev. Stat. 1852, Acts 1855, 1925; Burns 49-501; Baldwin 13108.

<sup>20</sup> 1 Rev. Stat. 1852; Burns 49-502; Baldwin 13109.

<sup>21</sup> 1 Rev. Stat. 1852; Burns 49-503; Baldwin 13110. Acts 1933, 1935, 1937; Burns, 1941 suppl., 49-1002; Baldwin, 1937 suppl., 7532.

<sup>22</sup> Rev. L. 1831, ch. 15, sec. 7; ch. 20, sec. 23. Acts 1833-34, ch. 16, sec. 1. Rev. Stat. 1843, ch. 4, secs. 84, 86, 89; ch. 10, sec. 2. 2 Rev. Stat. 1852, Acts 1861; Burns 5-118; Baldwin 1847. Acts 1899, 1911, 1913; Burns 28-702; Baldwin 5931. 1 Rev. Stat. 1852; Burns 49-104, 49-105, 49-120; Baldwin 13057, 13065, 13068. Acts 1889; Burns 49-109; Baldwin 13064. Acts 1851-52; Burns 49-123; Baldwin 13093. Acts 1857; Burns 49-124; Baldwin 13077. Acts 1857; Burns 49-125; Baldwin 16118. 2 Rev. Stat. 1852; Burns 49-2706; Baldwin 1433. Acts 1899; Burns 49-3003; Baldwin 5417. 1 Rev. Stat. 1852, Acts 1865, 1919; Burns 49-3101; Baldwin 5548. Acts 1919, 1921; Burns 64-1001, 64-1101; Baldwin 15666, 15696. Acts 1915; Burns 65-103; Baldwin 16061.

official oaths.<sup>23</sup> Bonds of collection agencies are filed by the clerk after being approved by the judge of the circuit court. The clerk's receipt for such bond must accompany any application to the Secretary of State for a license to operate a collection agency.<sup>24</sup> Formerly he kept a general index to various bonds approved or filed by him.

The clerk issues licenses for marriages. He records these licenses, the applications therefor, and certificates of marriage; and he makes monthly reports to the county health officer concerning marriages.<sup>25</sup>

The clerk issues licenses for physicians, surgeons,<sup>26</sup> midwives,<sup>27</sup> osteopaths,<sup>28</sup> chiropractors, drugless healers,<sup>29</sup> dentists,<sup>30</sup> optometrists,<sup>31</sup> nurses,<sup>32</sup> hunting, trapping,

<sup>23</sup> 1 Rev. Stat. 1852, Acts 1855; Burns 49-3503; Baldwin 13016.

<sup>24</sup> Acts 1937; Burns, 1941 suppl., 10-5001, 10-5002; Baldwin, 1937 suppl., 2468-5, 2468-6.

<sup>25</sup> Rev. Stat. 1838, ch. 68, secs. 3, 6. Rev. Stat. 1843, ch. 35, secs. 8, 9, 12. Acts 1881, ch. 19, sec. 11. Acts 1891, ch. 15, sec. 11. Acts 1907, 1913; Burns 35-115; Baldwin 8398. 1 Rev. Stat. 1852, Acts 1939; Burns, 1941 suppl., 44-201; Baldwin, 1939 suppl., 5622. 1 Rev. Stat. 1852; Burns 44-203; Baldwin 5624. Acts 1905, 1917, 1941; Burns, 1941 suppl., 44-205; Baldwin, 1941 suppl., 5625. Acts 1939; Burns, 1941 suppl., 44-213; Baldwin, 1939 suppl., 5624-1.

Before March 1, 1940 (the effective date of the 1939 law) a marriage license could be issued only in "the county in which the female resides." In 1938 the Supreme Court held that an injunction could be granted to prevent the clerk from violating this law. *Sweigart v. State*, 213 Ind. 157, 12 N. E. (2d) 134 (1938).

The 1939 law provides that the license may be issued in "the county in which application for such license is made."

The 1939 law also provides that each applicant for a license must present a medical certificate showing that the applicant is not infected with communicable syphilis, but this provision may be waived by the judge of the circuit court "because of emergency or other causes shown by affidavit or other proof." Acts 1939; Burns, 1941 suppl., 44-213; Baldwin, 1939 suppl., 5624-1.

Common law marriage. *Young v. General Baking Co.*, 104 Ind. App. 658, 12 N. E. (2d) 1016 (1938); *Argiroff v. Argiroff*, 215 Ind. 297, 19 N. E. (2d) 560 (1939).

Ratification of void ceremonial marriage by living together after removal of disability of party. *Eddington v. Eddington*, 213 Ind. 347, 12 N. E. (2d) 758 (1938).

<sup>26</sup> Acts 1881, ch. 19, secs. 10, 11. Acts 1895 (Spec. Sess.), ch. 77, sec. 2 (repealed by Acts 1897, ch. 169, sec. 10). Acts 1897; Burns 63-1303; Baldwin 10705.

<sup>27</sup> Acts 1897; Burns 63-1309; Baldwin 10709.

<sup>28</sup> Acts 1901; Burns 63-1316; Baldwin 10716.

<sup>29</sup> Acts 1927; Burns 63-1312; Baldwin 10713.

<sup>30</sup> Acts 1899, ch. 211, secs. 5, 7-11. Acts 1913, 1931, 1935; Burns, 1941 suppl., 65-504; Baldwin, 1935 suppl., 5589. Acts 1913, 1931; Burns 63-506, 63-507; Baldwin 5591, 5592.

<sup>31</sup> Acts 1907; Burns 63-1009; Baldwin 13180. Acts 1907, 1935; Burns, 1941 suppl., 63-1010, 63-1011; Baldwin, 1935 suppl., 13181, 13182.

<sup>32</sup> Acts 1905, 1913, 1931; Burns 63-903; Baldwin 13026.



fishing,<sup>38</sup> poultry dealers,<sup>34</sup> junk dealers,<sup>35</sup> and for carrying pistols.<sup>36</sup> Formerly he issued licenses for veterinarians,<sup>37</sup> brokers,<sup>38</sup> stallions,<sup>39</sup> petty money lenders,<sup>40</sup> and sale of liquor.<sup>41</sup>

The clerk records timber brands,<sup>42</sup> assumed business names,<sup>43</sup> trade-marks and trade names used on bottles and other containers,<sup>44</sup> and certificates of patents granted by the United States Patent Office.<sup>45</sup> Formerly he kept a negro register,<sup>46</sup> a register of certificates of agents of foreign insurance companies,<sup>47</sup> a roll of the attorneys of the county,<sup>48</sup> and lists of shareholders of all banks doing business in the county:<sup>49</sup> and he recorded limited partnerships.<sup>50</sup>

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<sup>33</sup> Acts 1901, ch. 203, sec. 13. Acts 1907, ch. 216, sec. 9. Acts 1911, ch. 286, secs. 1, 2. Acts 1927, 1933; Burns 11-302, 11-310; Baldwin 8302, 8309. Acts 1937; Burns, 1914 suppl., 11-1403; Baldwin, 1937 suppl., 8229-3.

The cited sections of the acts of 1901, 1911, 1927, and 1933 were repealed by Acts 1937, ch. 21, sec. 161.

<sup>34</sup> Acts 1917, 1929, 1932 (Spec. Sess.); Burns 42-802; Baldwin 10486.

<sup>35</sup> Acts 1905; Burns 42-703; Baldwin 10462.

<sup>36</sup> The law authorizes the judge of the circuit court to issue these licenses and does not mention the clerk. In issuing a license the clerk acts for the judge after the judge has approved a written application therefor. One copy of the license must be mailed to the Superintendent of State Police and another copy must be preserved for 6 years "by the authority issuing said license." The term of the license cannot exceed 1 year. Acts 1935, 1937; Burns, 1941 suppl., 10-4738; Baldwin, 1937 suppl., 2569-5.

Former law (repealed in 1935) authorized the clerk to issue such licenses. Acts 1925, ch. 207, sec. 7. Acts 1929, ch. 98, sec. 1. Acts 1935, ch. 63, sec. 21.

<sup>37</sup> Acts 1901, ch. 189, sec. 7 (repealed by Acts 1905, ch. 98, sec. 17).

<sup>38</sup> Acts 1840-41 (general), ch. 5, sec. 18.

<sup>39</sup> Acts 1889, ch. 116, sec. 1 (superseded by Acts 1913, ch. 28, creating the stallion enrollment board).

<sup>40</sup> Acts 1913, ch. 167, secs. 1-4 (repealed by Acts 1917, ch. 125, sec. 6).

<sup>41</sup> Acts 1917, ch. 4, secs. 6, 12.

<sup>42</sup> Acts 1901; Burns 51-338; Baldwin 13265.

<sup>43</sup> Acts 1909; Burns 50-201, 50-202; Baldwin 13210, 13211.

<sup>44</sup> Acts 1897, ch. 192, sec. 1. Acts 1917, 1931; Burns 66-101; Baldwin 16179.

<sup>45</sup> Acts 1869 (Spec. Sess.), 1899; Burns 51-401; Baldwin 2772.

<sup>46</sup> 1 Rev. Stat. 1852, ch. 74, sec. 3 (repealed by Acts 1867, ch. 123, sec. 1).

<sup>47</sup> Acts 1865 (Spec. Sess.), ch. 15, sec. 1. Acts 1877, ch. 43, sec. 1. Acts 1899, ch. 245, sec. 1. Acts 1901, ch. 180, sec. 1. Acts 1903, ch. 66, sec. 1. All of these laws were repealed by Acts 1935, ch. 162, sec. 276.

<sup>48</sup> Rev. Stat. 1843, ch. 38, sec. 93.

<sup>49</sup> 1 Rev. Stat. 1852, ch. 10, sec. 30.

<sup>50</sup> Rev. Stat. 1838, ch. 78, secs. 5-7.



The clerk keeps a register of estrays and driftage;<sup>51</sup> records appointments of railroad agents for service of process;<sup>52</sup> records the commissions, oaths, and terminations of authority of railroad policemen;<sup>53</sup> administers oaths;<sup>54</sup> takes acknowledgements of written instruments;<sup>55</sup> and distributes session laws enacted by the General Assembly.<sup>56</sup> Formerly the clerk filed public contracts for support of paupers;<sup>57</sup> filed enumerations of soldiers and sailors;<sup>58</sup> kept standards of weights and measures;<sup>59</sup> kept plats showing changes in routes of roads and canals;<sup>60</sup> and performed the duties of the office of school commissioner if there was no school commissioner.<sup>61</sup>

The clerk files petitions and remonstrances concerning the establishment of a county public library and notifies the judge of the circuit court, the county superintendent of schools, and the board of commissioners of the filing of such petition and any tax levy made for such library.<sup>62</sup>

All funds received by the clerk must be deposited in a depository designated by the board of finance, and may be withdrawn by checks signed by the clerk or his authorized deputy.<sup>63</sup> He reports to the county auditor and treasurer

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<sup>51</sup> 1 Rev. Stat. 1852; Burns 51-306, 51-315; Baldwin 13233, 13243.

<sup>52</sup> Acts 1877 (Spec. Sess.); Burns 55-3301 to 55-3303; Baldwin 14329 to 14331.

<sup>53</sup> Acts 1927; Burns 55-3402, 55-34-8; Baldwin 14648, 14654.

<sup>54</sup> 2 Rev. Stat. 1852; Burns 49-2708; Baldwin 1435.

<sup>55</sup> Rev. L. 1831, ch. 41, sec. 10. 1 Rev. Stat. 1852, Acts 1859; Burns 56-123; Baldwin 14674.

<sup>56</sup> Acts 1933, 1935; Burns, 1941 suppl., 49-1612, 49-1612a, 49-1614; Baldwin, 1935 suppl., 14956, 14856-1, 14958. Acts 1897; Burns 49-1613; Baldwin 14957.

<sup>57</sup> Rev. L. 1831, ch. 69, sec. 2.

<sup>58</sup> Acts 1885 (Spec. Sess.), ch. 97, secs. 1, 3 (both repealed by Acts 1895, ch. 100, sec. 1). Acts 1913, ch. 46, secs. 1, 2 (both repealed by Acts 1923, ch. 4, sec. 1).

<sup>59</sup> Rev. L. 1831, ch. 110.

<sup>60</sup> Rev. Stat. 1838, ch. 17, sec. 56.

<sup>61</sup> Acts 1876-37 (general), ch. 21, sec. 1.

<sup>62</sup> Acts 1917, 1921, 1927, 1939; Burns, 1941 suppl., 41-510; Baldwin, 1939 suppl., 10321.

<sup>63</sup> Acts 1937; Burns, 1941 suppl., 61-673, 61-674; Baldwin, 1937 suppl., 1438-1, 1438-2.

Loss of funds through failure of depository. State ex rel. Jackson v. Middleton, 215 Ind. 219, 19 N. E. (2d) 470 (1939); Commercial Casualty Ins. Co. v. Board of County Comrs., 215 Ind. 440, 19 N. E. (2d) 476 (1939).

fees and fines collected by him.<sup>64</sup> All moneys remaining in the office of the clerk for 10 years without being demanded by the parties entitled thereto are paid to the Attorney General.<sup>65</sup>

The clerk keeps a cashbook,<sup>66</sup> a daily balance record,<sup>67</sup> and a register of fees received by him;<sup>68</sup> and must preserve in his office all records and writings appertaining to his official duties.<sup>69</sup> On request and payment of a fee therefor the clerk furnishes certified copies of records and papers on file in his office.<sup>70</sup>

The State Board of Accounts (created in 1909) has prescribed forms for the following books to be used by the clerk: Cashbook of receipts and disbursements; daily balance record; register of fees and funds held in trust; and record of poultry dealers' licenses and applications therefor. Forms of printed blanks have also been prescribed.<sup>71</sup>

Other functions, duties, and records of the clerk are discussed in the essays entitled "Board of Primary Election Commissioners," "Circuit Court," "County Board of Canvassers," "County Board of Election Commissioners," "County School Fund Board," and "Registration Officer." Former functions, duties, and records of the clerk are discussed in the essays entitled "Auditor" (transferred to auditor in 1841), "Court of Common Pleas (1853-73)," and "Probate Court (1839-53)."

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<sup>64</sup> Rev. L. 1831, ch. 15, sec. 15. Rev. Stat. 1843, ch. 13, sec. 80; ch. 38, sec. 64. Acts 1871, ch. 17, secs. 20, 27. Acts 1891, ch. 194, sec. 125. Acts 1895, 1903, 1913; Burns 49-1402; Baldwin 7577. 2 Rev. Stat. 1852, Acts 1891; Burns 49-2710; Baldwin 1437.

<sup>65</sup> Acts 1933; Burns 49-2717, 49-2718; Baldwin 15177, 15178.

<sup>66</sup> Acts 1871, ch. 17, sec. 19. Acts 1879 (Spec. Sess.); Burns 49-2722; Baldwin 1442.

<sup>67</sup> Acts 1937; Burns, 1941 suppl., 61-623; Baldwin, 1937 suppl., 13844-44.

<sup>68</sup> Acts 1871, ch. 17, sec. 19. Acts 1909, ch. 10, sec. 1. Acts 1927; Burns 49-1301; Baldwin 7561. Acts 1879 (Spec. Sess.); Burns 49-2723; Baldwin 1443.

Probate fee book. Acts 1881 (Spec. Sess.), 1883; Burns 6-2205; Baldwin 3014.

<sup>69</sup> Rev. L. 1831, ch. 15, sec. 1. Rev. Stat. 1843, ch. 38, sec. 50. 2 Rev. Stat. 1852; Burns 49-2706; Baldwin 1433.

<sup>70</sup> Acts 1941, ch. 24, sec. 5. 2 Rev. Stat. 1852; Burns 7-413, 49-2707; Baldwin 3387, 1434. 1 Rev. Stat. 1852; Burns 44-303; Baldwin 5624. Midland Ry. Co. v. State ex rel. Harrison, 11 Ind. App. 433, 38 N. E. 57 (1894). Fidelity Bldg. & Sav. Union v. Byrd, 154 Ind. 47, 55 N. E. 867 (1899).

<sup>71</sup> Acts 1909; Burns 60-202; Baldwin 13855. Information obtained from E. P. Brennan, State Examiner, on May 18, 1939, by W. Davis Hamilton.

## RECEIPTS, AND DISBURSEMENTS

31. CASH BOOK OF RECEIPTS AND DISBURSEMENTS, Nov. 22, 1861-Dec. 22, 1862, 1927-. 5 vols. (1 vol. unlabeled; 1-4. Title varies: Register of Receipts and Disbursements, Nov. 22, 1861-Dec. 22, 1862. 1 vol.

Daily record of receipts and disbursements, showing dates, nature, and amounts of receipts and disbursements; receipt and check numbers; names of payer, payee, and fund; and totals. This is a combination of two records formerly kept separately: Cashbook of receipts, entry 32; cashbook of disbursements, entry 33. Arr. chron. by date of receipt and disbursement. No index. Hdw. 640 pp. 18 x 13 x 3. 3 vols., Nov. 22, 1861-Dec. 22, 1862, Jan. 1, 1927-Sept. 9, 1936, attic strg. room; 2 vols., Sept. 10, 1936-, clk. off.

32. CASH BOOK OF RECEIPTS Nov. 18, 1882-Dec. 31, 1926. 8 vols. (4 vols. unlabeled; 1, 2, 1, 2). Nov. 22, 1861-Dec. 22, 1862, 1927-, in Cash Book of Receipts and disbursements, entry 31.

Daily record of receipts, showing date, number, nature, and amount of receipt, and names of payer and fund. Arr. chron. by date of receipt. No index. Hdw. 500 pp. 18 x 24 x 2½. Attic strg. room.

33. CASH BOOK OF DISBURSEMENTS, 1912-1926. 2 vols. (1, 2). Nov. 22, 1861-Dec. 22, 1862, 1927-, in Cash Book of Receipts and disbursements, entry 31.

Daily record of disbursements, showing date, number, nature and amount of disbursement; names of payee fund, and depository; total disbursements; and monthly balance. Arr. chron. by date of disbursement. No index. Hdw. 486 pp. 16 x 13½ x 2½. Attic strg. room.

34. DAILY BALANCE AND CASH STATEMENTS, Oct. 1, 1912-. 6 vols. (1, 2, 6, 10, 12, 4).

Record of daily balance and cash statement, showing date of balance at beginning and ending of day; receipts, disbursements, and totals; names of fund and depository; and itemized statement of cash in depositories and office. Arr. chron. by date of balance. No index. Hdw. 350 pp. 12 x 9 x 1½. Attic strg. room.

35. REGISTER OF FEES AND FUNDS HELD IN TRUST, Jan. 2, 1911-. 4 vols. (1-4).

Record of receipts and disbursements of fees and funds held in trust, showing date, nature, and amount of receipt or disbursement; cause number; title; names of payer or payee;

and memoranda. Arr. chron. by date of receipt or disbursement. Indexed alph. by name of payer or payee. Hdw. 300 pp. 18 x 13 x 3. 3 vols., Jan. 2, 1911-Jan. 15, 1935, attic strg. room; 1 vol., Jan. 16, 1935-, clk. off.

36. RECORD OF FINES AND FORFEITURES, 910-19. 1 vol. (1). Record of fines and forfeitures collected, showing date, amount, and nature of collection; name of payer; and date and amount of payment to county treasurer. Arr. chron. by date of payment. No index. Hdw. 220 pp. 18 x 12 x 2. Clk. vt.

37. CLERK'S RECEIPTS, 1883-96, 1936-. 6 vols. and 3 f. b. (1-3).

Stubs of receipts issued by clerk, showing date, number, nature, and amount of receipt, and name of payer and fund. Arr. chron. by date of receipt. No index. Hdw. 3 f. b. 10 x 5 x 6, 1883-96, bsmt. strg. room; 6 vols. 300 pp. 17 x 11 x 12, 1936-, clk. vt.

38. CLERK'S CASH BOOK, [Judgments], Nov. 20, 1882-Nov. 22, 1892. 1 vol.

Stubs of receipts issued by clerk for payments of judgments and court costs, showing date and amount of payment; names of court, parties, and payer; and volume and page reference to judgment docket, entry 122. Arr. chron. by date of payment. No index. Hdw. 400 pp. 18 x 12 x 2. Attic strg. room.

#### OFFICIAL BONDS

39. RECORD OF OFFICIAL BONDS, Nov. 19, 1853-Oct. 1, 1870. 1 vol.

Transcripts of official bonds posted by county officials, showing date, amount, and conditions of bond and names of office, official, and sureties. Arr. chron. by date of bond. Indexed alph. by name of official. Hdw. 430 pp. 16 x 11½ x 2. Attic strg. room.

40. MISCELLANEOUS BONDS, 1852-. 13 f. b.

Original bonds posted by county officials, justices of peace and constables, including receivership, appeal, cost, and replevin bonds, showing date, amount, and conditions of bond, and names of office, principals, and sureties. Arr. chron. by date of bond. Indexed alph. by name of principals. Hdw. 10 x 13 x 5. Clk. vt.

41. OFFICIAL BOND INDEX RECORD, Nov. 13, 1876-Feb. 5, 1920. 1 vol. (1).

Index to official bond register, entry 42; official bonds, entry 43, showing date and amount of bond, names of official and sureties, and volume and page reference to recording.

Arr. alph. by name of principals. Hdw. 590 pp. 18 x 13 x 3. Clk. vt.

42. REGISTER OF OFFICERS, Mar. 1, 1836-Apr. 18, 1850, Nov. 1, 1872-Jan. 1, 1919. 2 vols. (A; 1 vol. unlabeled).

Register of bonded county officials, showing names of official and sureties; dates of election or appointment, qualification, bond, commission, and expiration of term; and amount and conditions of bond. Arr. chron. by date of commission, Mar. 1, 1836-Apr. 18, 1850 and alph. by name of official, Nov. 1, 1872-Jan. 1, 1919. No index, Nov. 1, 1872-Nov. 12, 1876; for index, Nov. 13, 1876-Jan. 1, 1919, see entry 41. Hdw. Aver. 300 pp. 14½ x 9 x 1½. Attic strg. room.

43. MISCELLANEOUS BOND RECORD, Dec. 30, 1907-. 3 vols. (1-3).

Record of official and miscellaneous bonds including recognizance, ditch, and appearance bonds, showing date, amount, and conditions of bond and names of principals and sureties. Also contains: Recognizance bond record, entry 136. Arr. chron. by date of bond. Indexed alph. by name of official; also separate index to officials bonds, Dec. 30, 1907-Feb 5, 1920, entry 41. Hdw. 650 pp. 18 x 13 x 3. Clk. vt.

44. NOTARIAL BOND, Sept. 2, 1885-. 2 vols. (1, 2).

Transcripts of bonds posted by notaries public, showing date, amount, and conditions of bond and names of notary and sureties. Arr. chron. by date of bond. Indexed alph. by name of notary. Hdw. 590 pp. 18 x 13 x 3. Clk. vt.

45. JUSTICE BOND RECORD, Apr. 25, 1896-. 1 vol. (3).

Transcripts of bonds posted by justices of the peace, showing date, amount, and conditions of bond and names of justices of peace and sureties. Arr. chron. by date of bond. Indexed alph. by name of justice of the peace. Hdw. 592 pp. 18 x 13 x 3. Clk. vt.

46. CONSTABLE BONDS, Oct. 17, 1870-. 1 vol. (2).

Transcripts of bonds posted by constables, showing date, amount, and conditions of bond and names of constable, township, and sureties. Arr. chron. by date of bond. Indexed alph. by name of constable. Hdw. 600 pp. 18 x 13 x 3. Clk. vt.



## LICENSES AND CERTIFICATES

## MARRIAGE

47. MARRIAGE RECORD, Sept. 30, 1836-. 16 vols. (1, A-J, 1-5).

Record of marriage applications, affidavits, licenses, and returns, showing dates of application, license, affidavit, marriage and marriage certificate; names, ages, color, dates and places of birth, and occupations of bride and groom; names, ages, and occupations of parents of bride and groom; and names of officiator and witnesses. Also Contains: Record of marriage licenses, March 9, 1902-, entry 49. Arr. chron. by date of application. Indexed alph. by name of bride and groom. Hdw. 588 pp. 18 x 13 x 2½. Clk. vt.

48. MARRIAGE RECORD, Aug. 27, 1892-. 17 vols. (1, A-P).

Record of marriage licenses issued and certificates of marriage, showing dates of application and license, names and places of birth of bride and groom, father's name, mother's maiden name, place of marriage, and name of officiator. Arr. chron. by date of application. Indexed alph. by name of bride and groom. Hdw. 320 pp. 15 x 10 x 2. Clk. vt.

49. RECORD OF MARRIAGE LICENSES, July 20, 1878-March 8, 1902. 13 vols. March 9, 1902 in Marriage Record, entry 47.

Record of marriage licenses issued and marriage certificates returned, showing dates of license, marriage, and return and names and addresses of bride, groom, and officiator. Arr. chron. by date of license. No index. Hdw. 300 pp. 17 x 13 x 2. Attic strg. room.

50. MARRIAGE AFFIDAVIT, 1893-. 1 f. b.

Notarized statements of consent by parents or guardian to marriage of minors, showing date of affidavit, and names of bride, groom, and parents or guardian. Arr. chron. by date of affidavit. Indexed alph. by names of bride and groom. Hdw. 10 x 13 x 5. Clk. vt.

51. MARRIAGE AFFIDAVIT RECORD, 1907-. 13 vols. (dated).

Record of affidavits of witnesses attesting to facts as stated in applications for marriage licenses, showing date of affidavit, and names of bride, groom, and affiants. Arr. chron. by date of affidavit. Indexed alph. by name of bride and groom. Hdw. 290 pp. 14 x 9 x 2. Clk. vt.

52. MARRIAGE LICENSE RETURNS, 1907-. 9 f. b. (dated).

Original certificates of marriage returned to clerk by officiator of ceremony, showing dates of filing, certificate, and

marriage; names and addresses of bride and groom; and name of officiator. Arr. chron. by date of filing. No index. Hdw. 10 x 13 x 5. Clk. vt.

#### PROFESSIONAL

53. PHYSICIANS APPLICATION, 1885-1905. 1 f. b.

Original certificates issued to physicians by State Board of Medical Registration and Examination and presented to clerk to obtain licenses to practice in State, showing information as in entry 54. Arr. chron. by date of license. Indexed alph. by name of physician. Hdw. 10 x 13 x 4. Clk. vt.

54. RECORD OF PHYSICIANS LICENSES, July 24, 1885-. 2 vols.

(1, 2). Title varies: Physicians License Record, July 24, 1885-March 12, 1897, 1 vol.

Record of licenses issued by clerk to physicians to practice in State upon presentation of certificates issued by State Board of Medical Registration and Examination, showing dates and numbers of certificate and license; name, age, address, and place of birth of physician; and name of college attended. Arr. chron. by date of license. Indexed alph. by name of physician. Hdw. 300 pp. 18 x 12 x 2. Attic strg. room.

55. REGISTER OF DENTISTS LICENSES, Aug. 1, 1892. 1 vol. (1).

Record of certificates issued by State Board of Dental Examiners and licenses issued by clerk to dentists upon presentation of certificate, showing date and number of certificate; date of license; name, age, place of birth, and address of dentist; and name of college attended. Arr. alph. by name of dentist. No index. Hdw. 152 pp. 16 x 11 x 1. Clk. vt.

56. REGISTER OF TRAINED NURSES, March 1, 1921-. 1 vol.

Register of licenses issued by clerk to nurses to practice in county and certificates issued by State Board of Registration and Examination of Nurses, showing dates of certificate, registration, and license; certificate number; and name and address of nurse. Arr. chron. by date of registration. No index. Hdw. 160 pp. 9 x 9 x 1. Clk. vt.

57. OPTOMETRY RECORD, April 1, 1914. 1 vol.

Record of certificates issued by State Board of Registration and Examination in Optometry and licenses issued by clerk to practice optometry in county, showing dates of certificate, license, and filing; certificate number; name, age, address, and place of birth of optometrist; and expiration date of

license. Arr. chron. by date of filing. Indexed alph. by name of optometrist. Hdw. 132 pp. 14 x 10 x 1. Clk. vt.

58. VETERINARY SURGEON'S RECORD, Aug. 15, 1901-June 6, 1903. 1 vol. (1). Discontinued as county record. Licenses issued by State Board of Veterinary Medical Examiners 1905-May 14, 1909 and by Veterinary Examining Board May 15, 1909-.

Record of applications for licenses to practice veterinary medicine and surgery and licenses issued by clerk upon presentation of diploma from veterinary college or affidavits by applicant and five freeholders certifying 5 years' former practice, showing date of diploma or affidavits and license and names of veterinarian and college attended or freeholders. Arr. chron. by date of license. Indexed alph. by name of veterinarian. Hdw. 136 pp. 14 x 9 x 1. Clk. vt.

#### COMMERCIAL

59. JUNK DEALER'S LICENSE, April 24, 1905-. 2 vols.

Record of applications for junk dealers licenses and licenses issued, showing dates of application and license, name and address of dealer, location of business, and duration of license. Arr. chron. by date of license. Indexed alph. by name of dealer. Hdw. 198 pp. 14 x 9 x 1. Clk. vt.

60. POULTRY DEALER'S LICENSE RECORD, July 7, 1917-. 4 vols. (1-4).

Record of application for poultry dealers licenses and licenses issued, showing dates of application and license, name of dealer, location of business, amount of fee, and duration of license. Arr. chron. by date of license. Indexed alph. by name of dealer. Hdw. 292 pp. 14 x 9 x 1½. Clk. vt.

61. RECORD FIRMS AND CO-PARTNERSHIPS, July 5, 1909-. 1 vol. (1).

Record of certificates filed by firms and partnerships engaged in business under names other than their own, showing dates of certificate and filing, names and addresses of firm or partnership and members, and nature and location of business. Arr. chron. by date of filing. Indexed alph. by names of firm and partnership. Hdw. 300 pp. 16 x 11 x 2. Clk. vt.

62. REGISTER OF INSURANCE CERTIFICATES, Nov. 2, 1875-Feb. 21, 1920. 1 vol. (1). Discontinued. Agents' certificates now issued by State Department of Insurance.

Register of certificates issued by Auditor of State to agents of insurance companies authorizing them to transact insurance business in county, showing dates of certificate, filing, and

expiration; names and addresses of agents and insurance company; and statement of assets and liabilities of company. Arr. alph. by name of company. Indexed alph. by name of agent. Hdw. 300 pp. 16½ x 12 x 2. Attic strg. room.

63. REGISTER OF INSURANCE AGENTS' CERTIFICATES, 1892-1920.  
10 f. b.

Copies of insurance agents' certificates issued by State Auditor and filed with clerk, showing information as in entry 62. Arr. chron. by date of filing. Indexed alph. by name of insurance company. Hdw. 10 x 13 x 3. Clk. vt.

64. RECORD OF APPLICATIONS FOR SIRES' LICENSE, April 4, 1890-April 13, 1913. 1 vol. (1). Discontinued as a county record; subsequent records kept by State Stallion Enrollment Board.

Record of applications and licenses issued to stallion owners, showing dates of application, filing, and license; name and address of owner; and age, description, and pedigree of stallion. Arr. chron. by date of filing. Indexed alph. by name of owner. Hdw. 296 pp. 18 x 12 x 1½. Attic strg. room.

#### HUNTING, FISHING, AND TRAPPING

65. RESIDENT HUNTING, FISHING AND TRAPPING LICENSE, 1941-.  
20 vols.

Stubs of hunting, fishing, and trapping licenses issued to residents of county, showing date and number of license; name, address, and physical description of licensee; and amount of fee. Arr. numer. by license no. No index. Hdw. 50 pp. 7 x 5 x ½. Clk. off.

66. ANNUAL NON-[RESIDENT] FISHING LICENSE, 1941-. 10 vols.  
Stubs of hunting and fishing licenses issued to nonresidents, showing information as in entry 65. Arr. numer. by license no. No index. Hdw. 50 pp. 7 x 5 x ½. Clk. off.

67. SOLDIERS' PERMITS TO HUNT AND FISH, 1941-. 5 vols.  
Stubs of hunting and fishing permits issued to veterans, showing date and number of permit; name, address, and physical description of veteran; and war record classification. Arr. numer. by permit no. No index. Hdw. 50 pp. 7 x 2½ x ½. Clk. off.

#### MISCELLANEOUS RECORDS

68. CHANGE OF VENUE, 1882-. 1 f. b.  
Record of causes venued from adjoining counties, showing dates

of filing and venue; cause number; names of plaintiff, defendant, attorneys, and county; and amount of fees and costs.

Arr. chron. by date of venue. No index. Hdw. and typed.

11 x 13 x 5. Clk. vt.

69. ENROLLMENT OF SOLDIERS, THEIR WIDOWS AND ORPHANS, 1886, 1890, 1894. 50 vols.

Record of persons who served in army or navy during war and their surviving widows and children under 16 years of age, showing name, address, color, rank, and service record of veteran; name and address of deceased veteran's widow; number and names of children under 16 years of age; date, manner, and place of death; and injury and disease record while in service. Arr. alph. by name of veteran. Hdw. 50 pp. 16 x 10½ x ½. Attic strg. room.

70. PATENT RIGHT, 1358-. 1 f. b.

Record of certificates of patent rights granted by U. S. Patent Office, showing dates of certificate and filing, name and address of patentee or agent, and nature, description, and number of patent. Arr. chron. by date of filing. Indexed alph. by name of patentee or agent. Hdw. 10 x 13 x 5. Clk. vt.

71. CANDIDATES ITEMIZED STATEMENT OF EXPENSE, 1914-. 5 f. b.

Candidates' statements of campaign expenses, showing dates of statement and filing; name and party affiliation of candidate and office sought; itemized list of expenses; and total. Arr. chron. by date of statement. No index. Hdw. 14 x 4 x 10. Clk. vt.

72. ESTRAY RECORD, May 22, 1836-Nov. 14, 1913. 2 vols.

Record of notices of strayed animals, showing dates of notice and finding, name and address of finder, place of finding, and description of animal. Arr. chron. by date of notice. No index. Hdw. 600 pp. 18 x 13 x 2½. Attic strg. room.

73. POWER OF ATTORNEY, 1891--. 1 f. b.

Original authorization of power of attorney, showing date of authorization and filing, names of principal and agent, and nature and limitations of powers granted. Arr. chron. by date of filing. No index. Hdw. 10 x 13 5. Clk. vt.



## RECORDER

## LEGAL STATUS

The office of recorder has existed in Fulton County ever since 1836 under the requirements of the Constitution of 1816 and the Constitution of 1851. The recorder is elected for a 4-year term by the voters of the county.<sup>1</sup> He is commissioned by the Governor of Indiana<sup>2</sup> and holds office until his successor is elected and qualified.<sup>3</sup> No person is eligible to the office for more than 8 years in any 12-year period.<sup>4</sup>

The recorder must be an elector of the county at the time of his election, must have been an inhabitant thereof throughout the preceding year,<sup>5</sup> must reside within the county after his election, must not hold any other lucrative office,<sup>6</sup> and must not practice law.<sup>7</sup> He must post bond in the amount of \$4,000, to be approved by the board of commissioners and filed with the clerk of the circuit court.<sup>8</sup> The recorder must take an oath that he will support the State and Federal Constitutions and will faithfully discharge the duties of his office.<sup>9</sup> Under the Constitution of 1816 the recorder was elected for a 7-year term and could hold the office of clerk of the circuit court.<sup>10</sup>

<sup>1</sup> Const. 1816, art. 11, sec. 10. Const. 1851, art. 6, sec. 2. Rev. L. 1831, ch. 33, sec. 3; ch. 57, sec. 1. Rev. Stat. 1838, ch. 85, sec. 1. Rev. Stat. 1843, ch. 4, secs. 2, 8; ch. 5, sec. 1; ch. 8, sec. 1. 1 Rev. Stat. 1852, Acts 1901; Burns 49-3201; Baldwin 5469.

Fulton Organization Acts. Acts 1834-35 (general), ch. 25, sec. 8. Acts 1835-36 (general), ch. 16, sec. 1.

<sup>2</sup> Const. 1816, art. 11, sec. 9. Const. 1851, art. 15, sec. 6, Rev. L. 1831, ch. 57, sec. 3. 1 Rev. Stat. 1852; Burns 49-201; Baldwin 13095.

<sup>3</sup> Const. 1851, art. 15, sec. 3.

<sup>4</sup> *Ibid.*, art. 2, sec. 11; art. 6, sec. 2. Carson v. McPhetridge, 15 Ind. 327 (1860).

<sup>5</sup> Const. 1816, art. 11, sec. 14. Const. 1851, art. 6, sec. 4.

<sup>6</sup> Const. 1816, art. 11, secs. 6, 13. Const. 1851, art. 2, sec. 9; art. 6, sec. 6.

<sup>7</sup> Acts 1865, ch. 42 (misnumbered 62), sec. 2. Acts 1881 (Spec. Sess.), ch. 37, sec. 115. Acts 1905, 1941; Burns, 1941 suppl., 10-3102; Baldwin, 1941 suppl., 2636. McCracken v. State, 27 Ind. 491 (1867).

<sup>8</sup> Const. 1816, art. 11, sec. 10. Rev. Stat. 1843, ch. 4, sec. 62.

<sup>9</sup> Rev. L. 1831, ch. 77, secs. 2, 3. Rev. Stat. 1838, ch. 85, secs. 2, 3. Rev. Stat. 1843, ch. 4, secs. 86, 90; ch. 8, secs. 2, 3. Acts 1905; Burns 10-3708; Baldwin 2660. 1 Rev. Stat. 1852; Burns 49-104, 49-105, 49-120; Baldwin 13057, 13063, 13068. Acts 1851-52; Burns 49-123; Baldwin 13093. 1 Rev. Stat. 1852, Acts 1901; Burns 49-3201; Baldwin 5469. State ex rel. Lowry v. Davis, 96 Ind. 539 (1884); State ex rel. Lowry v. Davis, 117 Ind. 307, 20 N. E. 159 (1889).

<sup>10</sup> Const. 1816, art. 11, sec. 6. Const. 1851, art. 15, sec. 4. Rev. Stat. 1843, ch. 4, secs. 77, 78, 81-84, 92; ch. 8, sec. 4. Acts 1905; Burns 10-3708; Baldwin 2660. 1 Rev. Stat. 1852; Burns 49-101; Baldwin 13054.

The recorder receives a regular salary of \$1,080 per year.<sup>11</sup> He is permitted to retain as compensation for himself, in addition to his regular salary, 20 percent of the fees collected by him, provided the total amount of fees so retained be not more than \$4,920.<sup>12</sup>

For sufficient legal causes the recorder may be removed from office by the circuit court after trial by jury on an accusation presented by the grand jury or verified by the oath of any person.<sup>13</sup> If the recorder be convicted of a felony the judgment of conviction must declare his office vacant.<sup>14</sup>

Any vacancy in the office of recorder is filled through appointment by the board of commissioners. At the next biennial general election (held on the first Tuesday after the first Monday in November in the even-numbered years), a recorder is elected for the remainder of the term in which the vacancy occurred. The person appointed or elected to fill a vacancy must take an oath and post bond, as was required of his predecessor, and holds office until his successor is elected and qualified.<sup>15</sup>

The recorder may appoint one deputy and assistants under authority from the board of commissioners. The county council fixes the salaries of the deputy and assistants in an amount not less than \$75 nor more than \$125 per month.<sup>16</sup> The recorder may require the deputy to give bond.<sup>17</sup> The deputy

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<sup>11</sup> Acts 1933; Burns 49-1004; Baldwin 7534.

<sup>12</sup> Acts 1933; Burns 49-1001, 49-1005, 49-1009; Baldwin 7531, 7535, 7539. Acts 1933, 1937; Burns, 1941 suppl., 49-1009; Baldwin, 1937 suppl., 7539. *Shilling v. State ex rel. Board of County Comrs.*, 158 Ind. 185, 62 N. E. 49 (1901).

<sup>13</sup> Const. 1851, art. 2, secs. 6, 7; art. 6, sec. 8. Acts 1897, 1899; Burns 49-821 to 49-834, 49-836; Baldwin 13154 to 13166, 13050, 13168. Acts 1875; Burns 49-837; Baldwin 13052.

<sup>14</sup> Acts 1897, 1899; Burns 49-834; Baldwin 13050.

<sup>15</sup> Const. 1851, art. 6, sec. 9. Rev. Stat. 1838, ch. 85, sec. 14. Rev. Stat. 1843, ch. 4, sec. 155; ch. 8, sec. 16. Acts 1881 (Spec. Sess.); Burns 29-701; Baldwin 7081. 1 Rev. Stat. 1852; Burns 49-405, 49-408, 49-409; Baldwin 13104, 13106, 13107. *Hedley v. Board of County Comrs.*, 4 Blackf 131 (1836); *Douglass v. State ex rel. Wright*, 31 Ind. (1869); *State ex rel. Ault v. Long*, 91 Ind. 351 (1883). *Op. Atty. Gen.* 1936, p. 9. Information obtained from Omer Stokes Jackson, Attorney General of Indiana, on July 11, 1939, by W. Davis Hamilton.

<sup>16</sup> Rev. L. 1831, ch. 77, sec. 6. Rev. Stat. 1838, ch. 85, sec. 11. Rev. Stat. 1843, ch. 8, sec. 13. 1 Rev. Stat. 1852, Acts 1855, 1925; Burns 49-501; Baldwin 13108. Acts 1933, 1935, 1937; Burns, 1941 suppl., 49-1002; Baldwin, 1937 suppl., 7532. *Op. Atty. Gen.* 1934, p. 256; 1937, p. 324.

<sup>17</sup> 1 Rev. Stat. 1852, Acts 1855, 1925; Burns 49-501; Baldwin 13108.

must take the oath required of the recorder, may perform all of his official duties, and is subject to the same regulations and penalties.<sup>18</sup> The recorder may remove such deputy and assistance at any time, and is responsible for their official acts.<sup>19</sup>

#### FUNCTIONS AND RECORD

Deeds, mortgages, and various other instruments are presented to the recorder for recording, for which he issues official receipts. He keeps an entry book in which he enters, as filed, all such instruments, noting the day and hour received, which is deemed the time of recording.<sup>20</sup>

To entitle any conveyance, mortgage, or other written instrument to be recorded, the execution thereof must be acknowledged or proved in the manner required by law,<sup>21</sup> and the intangible tax thereon (if any) must be paid.<sup>22</sup> No conveyance of land can be recorded by the recorder until after the instrument has been presented to the auditor and he has made an endorsement thereon that the land has been duly entered for taxation or is not taxable.<sup>23</sup>

Laws require the Fulton County recorder to record the following documents; Deeds;<sup>24</sup>

<sup>18</sup> 1 Rev. Stat. 1852; Burns 49-502; Baldwin 13109.

<sup>19</sup> Rev. L. 1831, ch. 77, sec. 6. Rev. Stat. 1838, ch. 85, sec. 11. Rev. Stat. 1843, ch. 8, sec. 13. 1 Rev. Stat. 1852; Burns 49-503; Baldwin 13110. Acts 1933, 1935, 1937; Burns, 1941 suppl., 49-1002; Baldwin, 1937 suppl., 7532.

<sup>20</sup> Rev. L. 1831, ch. 77, sec. 4. Rev. Stat. 1838, ch. 85, sec. 4. Rev. Stat. 1843, ch. 8, secs. 6-8; ch. 28, sec. 46. Acts 1895; Burns 49-3203; Baldwin 5472. 1 Rev. Stat. 1852, Acts 1925; Burns 49-3205; Baldwin 5470. 1 Rev. Stat. 1852; Burns 49-3211; Baldwin 14665. Hand v. Board of County Comrs., 26 Ind. 179 (1866); Holman v. Doran, 56 Ind. 358 (1877); Gilchrist v. Gough, 63 Ind. 576 (1878); Moore v. Glover, 115 Ind. 367, 16 N. E. 163 (1888).

<sup>21</sup> Rev. L. 1831, ch. 41, secs. 7-11. Rev. Stat. 1838, ch. 44, secs. 7-11. Rev. Stat. 1843, ch. 28, secs. 28-45, 48-51. Acts 1905; Burns 48-801; Baldwin 13473. 1 Rev. Stat. 1852; Burns 49-3212; Baldwin 14666. Acts 1935; Burns, 1941 suppl., 51-507; Baldwin, 1935 suppl., 13227-7. 1 Rev. Stat. 1852. Acts 1859; Burns 56-123 to 56-130, 56-132 to 56-137; Baldwin 14674 to 14676, 14679 to 14683, 14666, 14669, 14658, 14677, 14659, 14733.

The acknowledgment or proof must be recorded with the instrument. *Ibid.*

<sup>22</sup> Acts 1933; Burns 64-929; Baldwin 15927.

<sup>23</sup> Rev. Stat. 1843, ch. 12, secs. 23, 25, 26. Acts 1881 (Spec. Sess.), ch. 96, sec. 154. 1 Rev. Stat. 1852; Burns 49-3214; Baldwin 5478. Acts 1919; Burns 64-1409; Baldwin 15746.

<sup>24</sup> Rev. L. 1831, ch. 41, sec. 7; ch. 77, secs. 1, 4. Rev. Stat. 1838, ch. 44, sec. 7; ch. 85, secs. 1, 4. Rev. Stat. 1843, ch. 8, secs. 5, 9; ch. 28, secs. 24, 25, 48. 1 Rev. Stat. 1852; Burns 49-3210, 56-118, 56-131; Baldwin 5475, 14664, 14665. 1 Rev. Stat. 1852, Acts 1875, 1913, 1921, 1923; Burns 56-119; Baldwin 14671. Lowry v. Smith, 97 Ind. 466 (1884).

land patents;<sup>25</sup> probated wills; <sup>26</sup> decrees quieting title to lands;<sup>27</sup> partitions of real estate under judicial proceedings;<sup>28</sup> mortgages; releases and assignments of mortgages;<sup>29</sup> conditional sales contracts;<sup>30</sup> Federal tax lien notices and releases thereof;<sup>31</sup> statutory liens of materialmen, building

Cemetery records. Rev. Stat. 1843, ch. 25, secs. 62-65. Acts 1925; Burns 21-223; Baldwin 4648. 1 Rev. Stat. 1852; Burns 25-1521, 25-1522; Baldwin 10600, 10602.

Tax deeds and tax certificates. Rev. Stat. 1843, ch. 12, sec. 159. 1 Rev. Stat. 1852, ch. 6, sec. 197. Acts 1881 (Spec. Sess.), ch. 96, secs. 195, 211. Acts 1919, ch. 59, secs. 263, 284.

<sup>25</sup> "May be recorded as other deeds and conveyances." Acts 1881; Burns 2-1632; Baldwin 271.

<sup>26</sup> Acts 1891; Burns 7-712; Baldwin 3413.

Wills probated in another county should be recorded in the deed record. A&S 1933; Burns 7-713; Baldwin 3414.

<sup>27</sup> Acts 1911; Burns 3-1409; Baldwin 968.

The 1911 law requires the recording in a substantially bound book to be known as the "Quiet Title Record," and requires an index for that record. *Ibid.*

<sup>28</sup> Acts 1859, ch. 103. Acts 1907, ch. 80. Acts 1919; Burns 64-518; Baldwin 15555.

<sup>29</sup> Rev. L. 1831, ch. 41, sec. 7; ch. 77, secs. 1, 4; ch. 36, sec. 23. Acts 1836-37 (general), ch. 2, sec. 10. Rev. Stat. 1838, ch. 44, secs. 7, 12; ch. 85, secs. 1, 4, 8, 9, 10. Rev. Stat. 1843, ch. 8, secs. 5, 9; ch. 28, secs. 26, 27, 48; ch. 29, secs. 52, 63, 69-71. Acts 1909, 1917, 1923; Burns 2-617; Baldwin 61-2 (repealed by Acts 1937, ch. 97, sec. 4). Acts 1937; Burns, 1941 suppl., 2-625; Baldwin, 1939 suppl., 61-2c. Acts 1865; Burns 28-233; Baldwin 6583. Acts 1905; Burns 49-3202, 49-3204; Baldwin 5476, 5473. 1 Rev. Stat. 1852; Burns 49-3210; Baldwin 5475. 1 Rev. Stat. 1852, Acts 1875, 1913, 1921, 1923; Burns 56-119; Baldwin 14671. 1 Rev. Stat. 1852; Burns 56-122; Baldwin 14673. 2 Rev. Stat. 1852; Burns 56-705, 56-708; Baldwin 989, 992. Acts 1901; Burns 56-709, 56-710; Baldwin 993, 994. Acts 1925; Burns 56-712, 56-713; Baldwin 10575, 10576. 2 Rev. Stat. 1852, Acts 1877; Burns 56-715; Baldwin 996. Acts 1877; Burns 56-716; Baldwin 998. Acts 1899; Burns 56-717; Baldwin 997.

Chattel mortgages before 1935 (old system). Rev. Stat. 1838, ch. 85 (first act), sec. 1; ch. 85 (second act), sec. 1. 1 Rev. Stat. 1852, Acts 1897; Burns 33-301, 33-302; Baldwin 8373, 8374 (first section repealed by Acts 1935, ch. 147, sec. 20).

Chattel mortgages and chattel mortgage minute book since 1935. Acts 1935; Burns, 1941 suppl., 51-504 to 51-517; Baldwin, 1935 suppl., 13227-4 to 13227-17. Voigt v. Morgenthaler Linotype Co., 213 Ind. 325, 12 N. E. (2d) 498 (1938); Voigt v. Ludlow Typograph Co., 213 Ind. 329, 12 N. E. (2d) 499 (1938).

Mortgage covering both realty and personalty. Lincoln Nat. Bank & T. Co. v. Nathan, 215 Ind. 178, 19 N. E. (2d) 243 (1939).

<sup>30</sup> Acts 1935; Burns, 1941 suppl., 58-806, 53-809 to 53-811; Baldwin, 1935 suppl., 14857-5, 14857-8 to 14857-10.

The law requires that a separate record be kept. *Ibid.*

<sup>31</sup> Acts 1925; Burns 49-3221 to 49-3225; Baldwin 10570 to 10574.



contractors, laborers,<sup>32</sup> transfermen,<sup>33</sup> and owners of stallions;<sup>34</sup> contracts waiving liens of materialmen, laborers, and building contractors;<sup>35</sup> releases of vendors' liens;<sup>36</sup> leases of lands;<sup>37</sup> surveys establishing a meridian line;<sup>38</sup> surveyor's field notes;<sup>39</sup> maps and plats;<sup>40</sup> notices of disputes of easements;<sup>41</sup> farm names;<sup>42</sup> fence marks;<sup>43</sup> marks and brands of animals;<sup>44</sup> powers of attorney;<sup>45</sup> discharges from military service;<sup>46</sup> charters and proceedings of corporations

<sup>32</sup> Rev. Stat. 1838, ch. 69, sec. 7. Rev. Stat. 1843, ch. 42, sec. 5. 2 Rev. Stat. 1852, ch. 1, sec. 650, p. 182. Acts 1867, ch. 36, sec. 2. Acts 1883, ch. 115, sec. 4. Acts 1909; Burns 43-703, 43-704; Baldwin 10507, 10508. State ex rel. Lyons v. Phillips, 157 Ind. 481, 62 N. E. 12 (1901).

Corporation employees. Acts 1877 (Spec. Sess.); Burns 43-302; Baldwin 10547.

<sup>33</sup> Acts 1921, 1929; Burns 43-1002, 43-1003; Baldwin 10529, 10530.

<sup>34</sup> Acts 1889, ch. 116, sec. 4. Acts 1913, 1933; Burns 16-910; Baldwin 3792.

<sup>35</sup> Acts 1921, ch. 56, sec. 1.

The law requires the recording by the recorder "in books provided by him for that purpose" and requires an index thereto "in books kept for that purpose." *Ibid.*

<sup>36</sup> Acts 1937; Burns, 1941 suppl., 2-625; Baldwin, 1937 suppl., 61-2c. Acts 1889; Burns 56-144, 56-145; Baldwin 14702, 14703.

<sup>37</sup> Rev. Stat. 1843, ch. 28, sec. 25. 1 Rev. Stat. 1852; Burns 56-118; Baldwin 14664. 1 Rev. Stat. 1852, Acts 1875, 1913, 1921, 1923; Burns 56-119; Baldwin 14671.

Miscellaneous record specified. Acts 1897; Burns 56-120; no Baldwin.

<sup>38</sup> Acts 1895; Burns 49-3327 to 49-3329; Baldwin 10849 to 10851.

<sup>39</sup> Rev. L. 1831, ch. 102, secs. 5, 7. Rev. Stat. 1843, ch. 10, secs. 10, 11, 14. 1 Rev. Stat. 1852, Acts 1925; Burns 49-3205; Baldwin 5470. 1 Rev. Stat. 1852, Acts 1911; Burns 49-3309; Baldwin 5508.

<sup>40</sup> Rev. L. 1831, ch. 77, sec. 7; ch. 105, sec. 14. Rev. Stat. 1838, ch. 85, sec. 12. Rev. Stat. 1843, ch. 8, sec. 14. 1 Rev. Stat. 1852, ch. 9. Acts 1881 (Spec. Sess.); Burns 6-1127; Baldwin 3168. Acts 1925; Burns 21-219 to 21-221, 21-225, 21-226, 21-228; Baldwin 4644 to 4646, 4650, 4651, 4653. 1 Rev. Stat. 1852; Burns 25-1522; Baldwin 10602. Acts 1905; Burns 48-801, 48-802; Baldwin 12473, 12474. 1 Rev. Stat. 1852; Burns 49-3232; Baldwin 5432.

<sup>41</sup> 1 Rev. Stat. 1852; Burns 56-804; Baldwin 14775

<sup>42</sup> Acts 1913; Burns 49-3226 to 49-3230; Baldwin 5488 to 5492.

<sup>43</sup> Acts 1877 (Spec. Sess.); Burns 30-510; Baldwin 7620.

<sup>44</sup> Acts 1835-36 (general), ch. 24, sec. 1. Rev. Stat. 1838, ch. 85, sec. 6. Rev. Stat. 1843, ch. 8, secs. 11, 12. 1 Rev. Stat. 1852; Burns 49-3231; Baldwin 5474.

<sup>45</sup> Acts 1881 (Spec. Sess.), 1891; Burns 2-2519; Baldwin 391. Acts 1863; Burns 49-1309, 56-108, 56-109; Baldwin 14733, 14729, 14732. 1 Rev. Stat. 1852; Burns 56-1006, 56-1007, 56-137; Baldwin 14729-14731.

<sup>46</sup> Acts 1865, ch. 40, sec. 4. Acts 1865 (Spec. Sess.), ch. 7, sec. 4. Acts 1925; Burns 59-1002 to 59-1004; Baldwin 11002 to 11004.

The law requires the recording in a separate book and requires an index thereto. *Ibid.*



and associations;<sup>47</sup> limited partnerships;<sup>48</sup> bonds of surviving partners;<sup>49</sup> leases of rolling stock and equipment of railroads;<sup>50</sup> statutory statements of express companies;<sup>51</sup> certificates revoking the admission of foreign corporations to do business in this State;<sup>52</sup> and the official bond of the clerk of the circuit court.<sup>53</sup>

The recorder keeps a miscellaneous record in which he records documents for which he keeps no specific book, including many papers, writings, and documents which no law specifically requires him to record.<sup>54</sup>

A law provides that, when so directed by the board of commissioners, the recorder must "subscribe for one of each of the newspapers of a political or miscellaneous character published in his county, file the same in his office, and cause said newspapers to be substantially bound, from time to time, in volumes of a convenient size, to be kept in his office for the use of the inhabitants of this State, who shall, at all times during office hours, have access to the same, free of all charge and expense."<sup>55</sup>

Laws formerly required the recorder of Fulton County to record the following documents: Indentures of apprentices;<sup>56</sup>

<sup>47</sup> Rev. L. 1831, ch. 60, sec. 5; ch. 64, sec. 1; ch. 87, sec. 1. Acts 1921, 1941; Burns 1941 suppl., 25-1102; Baldwin 1941 suppl., 4559-1. Acts 1929; Burns 25-219, 25-228, 25-235, 25-241, 25-242, 25-305, 25-309, 25-311; Baldwin 4919, 4928, 4935, 4941, 4942, 4963, 4967, 4969. Acts 1921, 1941; Burns, 1941 suppl., 25-1102; Baldwin 1941 suppl., 4552. Acts 1883; Burns 25-2002; Baldwin 10681. Acts 1909; 1911 Burns, 1941 suppl., 25-3502; Baldwin, 1941 suppl., 9280-2.

<sup>48</sup> Such documents are required to be recorded "in a book to be kept for that purpose." Rev. Stat. 1843, ch. 32, sec. 4. Acts 1859; Burns 50-104, 50-106, 50-112; Baldwin 13195, 13197, 13209.

<sup>49</sup> Acts 1877; Burns 50-304; Baldwin 13216.

<sup>50</sup> Acts 1891; Burns 55-3716 to 55-3718; Baldwin 15449 to 15451.

<sup>51</sup> Acts 1879 (Spec. Sess.); Burns 55-4102; Baldwin 14401.

<sup>52</sup> Acts 1929; Burns 25-311; Baldwin 4969.

<sup>53</sup> Rev. L. 1831, ch. 15, sec. 5. Rev. Stat. 1838, ch. 17. Rev. Stat. 1843, ch. 4, sec. 89. 1 Rev. Stat. 1852; Burns 49-106; Baldwin 13066.

<sup>54</sup> Rev. L. 1831, ch. 77, sec. 7. Rev. Stat. 1838, ch. 85, sec. 12. Rev. Stat. 1843, ch. 8, sec. 14. 1 Rev. Stat. 1852, Acts 1925; Burns 49-3205; Baldwin 5470. 1 Rev. Stat. 1852; Burns 49-3209; Baldwin 5471. Information obtained from E. P. Brennan, State Examiner, on May 18, 1939, by W. Davis Hamilton.

<sup>55</sup> 1 Rev. Stat. 1852; Burns 26-626 to 26-628; Baldwin 5285 to 5287.

<sup>56</sup> Acts 1827-28, ch. 46, sec. 1. Rev. L. 1831, ch. 69, sec. 7. Rev. Stat. 1838, ch. 4, sec. 2. Rev. Stat. 1843, ch. 35, secs. 138, 139. 1 Rev. Stat. 1852; Burns 49-3210; Baldwin 5475.

The law providing for indenturing of apprentices was repealed in 1939. Acts 1939, ch. 10.

old age assistance awards;<sup>57</sup> inheritance tax receipts;<sup>58</sup> dentists' certificates of registration;<sup>59</sup> special assessments against lands benefited by ditches and drains;<sup>60</sup> and official bonds of the sheriff, coroner,<sup>61</sup> and county school commissioner.<sup>62</sup>

The recorder is required to index the deeds, mortgages, and various other instruments recorded by him.<sup>63</sup> Information concerning the documents recorded in his office is reported annually to the State Division of Accounting and Statistics.<sup>64</sup>

The recorder charges the fees required by law. He keeps a combined fee book and cashbook, and enters therein, as received, all money received in his office. Quarterly he

<sup>57</sup> Acts 1936 (Spec. Sess.), 1941; Burns 1941 suppl., 52-1207; Baldwin 1941 suppl., 14078-38.

<sup>58</sup> Acts 1913, ch. 47, sec. 21.

This act, which was superseded by Acts 1931, ch. 75, provided that such receipts be recorded in a book labeled "Transfer Tax."

<sup>59</sup> Acts 1887, ch. 32, sec. 9. Acts 1899, ch. 211, sec. 29.

<sup>60</sup> Acts 1881 (Spec. Sess.), ch. 43, sec. 6. Acts 1885 (Spec. Sess.), ch. 40, sec. 6. Acts 1905, ch. 157, secs. 4, 14. Acts 1907, ch. 252, secs. 6, 21. Acts 1933, ch. 264, sec. 81.

Releases. Acts 1941; Burns, 1941 suppl., 27-140; Baldwin, 1941 suppl., 5771-1.

<sup>61</sup> Rev. L. 1831, ch. 97, sec. 3. Rev. Stat. 1838, ch. 99, sec. 3. Rev. Stat. 1843, ch. 38, secs. 69, 70. 1 Rev. Stat. 1852, ch. 92. 2 Rev. Stat. 1852, ch. 6, sec. 1, p. 10; ch. 7, sec. 1, 13.

<sup>62</sup> Rev. L. 1831, ch. 86, sec. 6. Rev. Stat. 1838, ch. 94 (2), sec. 3. Rev. Stat. 1843, ch. 4, sec. 162.

<sup>63</sup> Rev. L. 1831, ch. 77, sec. 5. Rev. Stat. 1838, ch. 85, sec. 5. Rev. Stat. 1843, ch. 8, sec. 10. 1 Rev. Stat. 1852; Burns 49-3209; Baldwin 5471, 1 Rev. Stat. 1852, Acts 1855; Burns 49-3216, 49-3218; Baldwin 5480, 5482. Turpen v. Board of County Comrs., 7 Ind. 172 (1855); State ex rel. Board of County Comrs., v. Atkinson, 17 Ind. 26 (1861).

Mortgages. Rev. L. 1831, ch. 77, sec. 5. Rev. Stat. 1838, ch. 85, sec. 5. Rev. Stat. 1843, ch. 8, sec. 10. 1 Rev. Stat. 1852; Burns 49-3209, 49-3217, 49-3218; Baldwin 5471, 5481, 5482. Gilchrist v. Gough, 63 Ind. 576 (1878); Reeder v. State ex rel. Harlan, 98 Ind. 114 (1884).

Index to chattel mortgage minute book. Acts 1935; Burns, 1941 suppl., 51-510; Baldwin, 1935 suppl., 13227-10.

Federal tax liens. Acts 1925; Burns 49-3222; Baldwin 10571.

Conditional sales of fixtures. Acts 1935; Burns, 1941 suppl., 58-806, 58-809; Baldwin, 1935 suppl., 14857-5, 14857-8.

Quiet title record. Acts 1911; Burns 3-1409; Baldwin 968.

Discharges from military service. Acts 1925; Burns 59-1003; Baldwin 11003.

Contracts waiving liens of laborers, materialmen, and building contractors. Acts 1921, ch. 56, sec. 1.

<sup>64</sup> Acts 1909; Burns 60-202; Baldwin 13355. *Statistical Report for the State of Indiana for the Period Ended June 30, 1940* pp. 56-58.

reports to the auditor the amount of fees collected by him, and pays such fees over to the treasurer.<sup>65</sup>

Printed blank forms (furnished by the county) of deeds, mortgages, and other instruments may be used by the recorder for recording instruments (executed on similar printed forms) for any person who presented 500 or more of such instruments to the recorder for recording during the last preceding year.<sup>66</sup>

The photographic process of recording instruments may be used by the recorder if adopted by the board of commissioners.<sup>67</sup> Such method has never been used generally by the recorder of Fulton County.

Forms for the following books were prescribed for recorders by the State Board of Accounts; A combined fee book and cashbook; register of farm names; chattel mortgage minute book; and abstract of old-age assistance awards. Said board has prescribed forms of blanks for report of fees collected, application for registration of farm names, application for registration of farm names, certificate of registrations of farm names, and chattel mortgage receipt.<sup>68</sup>

Formerly the county treasurer, auditor, and recorder selected petit jurors for the circuit court and court of common pleas.<sup>69</sup>

#### FILING OF INSTRUMENTS FOR RECORDING

74. ENTRY BOOK, 1836-. 22 vols. (17 vols. unlabeled; 5 vols. dated).

Daily entry books of all instruments filed for recording, showing date and time of filing, entry number, nature of document, names of principals, location and description of land, date of document, and amounts of consideration and fee. Arr. chron. by date of filing. No index. Hdw. Aver. 550 pp. 16½ x 15

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<sup>65</sup> Acts 1871, ch. 15, secs. 4, 21, 22, 51. Acts 1883, ch. 78, sec. 3. Acts 1891, ch. 194, secs. 124, 125. Acts 1895; Burns 46-1308, 49-1310; Baldwin 7566, 7567, Acts 1895, 1903, 1913; Burns 49-1401, 49-1402, 49-1408, 49-1410; Baldwin 7576, 7577, 7583, 7585. Op. Atty. Gen. 1937, p. 217. See footnote 12.

Fee charged where single instrument release or assigns more than one chattel mortgage. Op. Atty. Gen. 1939, p. 54.

<sup>66</sup> Acts 1875 (Spec. Sess.), 1919; Burns 49-3206; Baldwin 5487.

<sup>67</sup> Acts 1927; Burns 49-3207; Baldwin 14667.

<sup>68</sup> Acts 1909; Burns 60-202; Baldwin 13855. Information obtained from E. P. Brennan, State Examiner, on May 18, 1939, by W. Davis Hamilton.

<sup>69</sup> 2 Rev. Stat. 1852, ch. 9, sec. 1, p. 24. Acts 1853, ch. 59, sec. 1.

These duties were discontinued in 1881. Acts 1881 (Spec. Sess.) 1899, 1913; Burns 4-3301 4-3304, 4-3306; Baldwin 1266, 1267, 1270. See the essay entitled "Circuit Court."

x 2½. 17 vols. , 1836-1923, attic strg room; 5 vols., 1924-, recr. vt.

## LAND TRANSFERS

### DEEDS AND TITLES

75. GENERAL INDEX TO DEEDS [Grantee], June 17, 1836-.  
13 vols. (1-13).

Index to deed record, entry 77; tax title deed record, entry 78; cemetery deed record, entry 80; and sheriff's deed record, entry 79, showing names of grantee and grantor, kind of deed, location and description of property, amount of consideration, and volume and page reference to recording. Arr. alph. by name of grantee. Hdw. 600 pp. 18 x 12 x 3. Recr. vt.

76. GENERAL INDEX TO DEEDS [Grantor], June 17, 1836-. 13 vols. (1-13).

Index to deed record, entry 77; tax title deed record, entry 78; cemetery deed record, entry 80; sheriff's deed record, entry 79, showing information as in entry 75. Arr. alph. by name of grantor. Hdw. 600 pp. 18 x 12 x 3. Recr. vt.

77. DEED RECORD, April 30, 1836-. 116 vols. (A, A-Z, 1-89).

Transcripts of deeds for conveyance of titles to real property, showing dates of deed and recording, names of grantor and grantee, kind of deed, location and description of property, and amount of consideration. Also contains: Tax title deed record, April 30, 1836-Jan. 25, 1863, entry 78; sheriff's deed record, April 30, 1836-Nov. 18, 1872, entry 79; cemetery deed record, April 30, 1836-Sept. 1, 1925, entry 80; quiet title record, April 30, 1836-June 5, 1911, entry 81; partition deed record, April 30, 1836-Oct. 24, 1887, entry 83; mortgage record, April 30, 1836-Oct. 28, 1850, entry 86. Arr. chron. by date of recording. Indexed alph. by names of grantor and grantee; also separate indexes, entries 75, 76; for index to mortgages, April 30, 1836-Oct. 29, 1850, see entries 87, 88. Hdw. 1836-1900; typed 1901-. 600 pp. 18 x 12 x 3. Recr. vt.

78. TAX TITLE DEED RECORD, Jan. 26, 1863-. 3 vols.  
(1-3). Apr. 30, 1836-Jan. 25, 1863 in Deed Record, entry 77.

Transcripts of tax title deeds issued by auditor for real property sold for delinquent taxes, showing dates of sale, tax sale certificate, and deed; date and time of recording; names of owner and grantee; amount of sale; and location and description of property. Arr. chron. by date of recording. Indexed alph. by name of grantee; also separate indexes, entries 75, 76. Hdw. 600 pp. 18 x 12 x 3. Recr. vt.

79. SHERIFF'S DEED RECORD, Nov. 19, 1872-. 3 vols.  
(1-3). Apr. 30, 1836-Nov. 18, 1872 in Deed Record,  
entry 77.

Transcripts of sheriff's deeds for conveyance of real property sold on court order to satisfy judgments, showing dates of court order, sale, deed, and recording; names of grantor and grantee, amount of consideration; and location and description of property. Arr. alph. by name of grantee. Indexed alph. by name of grantor; also separate indexes, entries 75, 76. Hdw. 575 pp. 18 x 12 x 3. Recr. vt.

80. CEMETERY DEED RECORD, Sept. 2, 1925-. 1 vol. (1).  
Apr. 30, 1836-Sept. 1, 1925 in Deed Record, entry 77.

Transcripts of deeds for conveyance of titles to cemetery lots, showing dates of deed and recording; names of cemetery, grantor, and grantee; size, location, and description of lot; and amount of consideration. Arr. chron. by date of recording. Indexed alph. by name of grantee; also separate indexes, entries 75, 76. Typed. 204 pp. 18 x 12 x 3. Recr. vt.

81. QUIET TITLE RECORD, June 6, 1911-. 3 vols. (1, 2,  
2). 1836- June 5, 1911 in Deed Record, entry 77.

Transcripts of court decrees in causes quieting title to real property, showing dates of trial and filing; names of plaintiff, defendant, attorneys, and witnesses; location and description of land; and proceedings and order of court. Arr. chron. by date of filing. Indexed alph. by name of plaintiff; also separate index, Aug. 1, 1911-May 22, 1922, entry 82. Typed. 514 pp. 18 x 12 x 3. Recr. vt.

82. GEN[eral] INDEX TO QUIET TITLE RECORDS, Aug. 1, 1911-May 22, 1922. 1 vol. (1).

Index to quiet title record, entry 81, showing dates of decree, filing, and recording; names of plaintiff, town or city, and additions; location and description of property; and volume and page reference to recording. Arr. chron. by date of recording. Hdw. 600 pp. 18 x 12 x 3. Recr. vt.

83. PARTITION RECORD, Oct. 25, 1887-March 2, 1924. 1 vol. (1). April 30, 1836-Oct. 24, 1887 in Deed Record, entry 77.

Record of court decrees in actions for partition of real estate, showing dates of court decree and recording; names of petitioner and commissioners appointed by judge of circuit court to make division; location and description of property; amounts of fees and costs; and decision and order of court. Arr. chron. by date of recording. Indexed alph. by name of petitioner. Hdw. 592 pp. 18 x 12 x 3. Recr. vt.



84. TRACT BOOK, July 5, 1836-Dec. 28, 1850. 1 vol.  
Record of original land purchases from Federal Government, showing dates of purchase and recording, name of purchaser, location, description, and acreage of land purchased. Arr. chron. by date of recording. No index. Hdw. 300 pp. 18 x 12 x 2. Recr. vt.

## PLATS

85. PLAT BOOK, Sept. 20, 1836-. 2 vols.  
Plat drawings of towns, townships, and subdivisions, showing dates of drawing, transfer, and recording; names of town, township, property owner, and subdivision; and location, number, and size of lot or tract. Arr. chron. by date of drawing. No index. Hdw. 400 pp. 18 x 12 x 3. Recr. vt.

## MORTGAGE TRANSACTIONS

## REAL ESTATE

86. MORTGAGE RECORD, Oct. 29, 1850-. 82 vols.  
(1-82). Apr. 30, 1836-Oct. 28, 1850 in Deed Record, entry 77.

Transcripts of mortgages executed to secure loans on real property, showing dates of mortgage, maturity, recording, and satisfaction; names of mortgagor and mortgagee; number, amount, and conditions of mortgage; and location and description of property. Also contains: Release mortgage record, Oct. 29, 1850-Jan. 1, 1924, entry 99. Arr. chron. by date of recording. Indexed alph. by names of mortgagor and mortgagee: also separate indexes, entries 87, 88. 32 vols. (1-32) hdw.; 50 vols. (33-82) typed. 640 pp. 18 x 12 x 3. Recr. vt.

87. GENERAL INDEX OF MORTGAGES, [Mortgagor], Oct. 4, 1836-. 12 vols. (1-12).

Index to mortgages in deed record, Oct. 4, 1836-Oct. 28, 1850, entry 77; mortgage record, entry 86; school fund mortgage record, entry 89, showing dates of mortgage and recording, names of mortgagor and mortgagee, location and description of property, and volume and page reference to recording. Arr. alph. by name of mortgagor. Hdw. 600 pp. 18 x 12 x 3. Recr. vt.

88. GENERAL INDEX OF MORTGAGES, [Mortgagee], Oct. 4, 1836-. 12 vols. (1-12).

Index to mortgages in deed record, Oct. 4, 1836-Oct. 28, 1850,

entry 77; mortgage record, entry 86; and school fund mortgage record, entry 89, showing information as in entry 87. Arr. alph. by name of mortgagee. Hdw. 600 pp. 18 x 12 x 3. Recr. vt.

89. SCHOOL FUND MORTGAGE RECORD, May 5, 1859-. 7 vols. (1-7).

Transcripts of mortgages executed on real property to secure school fund loans, showing dates of mortgage, maturity, and recording; mortgage number; names of mortgagor, mortgagee, and fund; location and description of property; and amount and conditions of mortgage. Arr. chron. by date of recording. Indexed alph. by name of mortgagor; also separate indexes, entries 87, 88. Typed. 600 pp. 18 x 12 x 3. Recr. vt.

#### CHATTEL

90. GENERAL INDEX OF CHATTELS [Mortgagor], May 7, 1926-. 2 vols. (4, 5).

Index to chattel mortgages, entry 93; chattel mortgage minute book, entry 92, showing names of mortgagor and mortgagee; dates of mortgage, recording, and satisfaction; amount and number of mortgage; and volume and page reference to recording. Arr. by name of mortgagor. Hdw. 600 pp. 18 x 12 x 3. Recr. vt.

91. GENERAL INDEX OF CHATTELS [Mortgagee], May 7, 1926-. 2 vols. (4, 5).

Index to chattel mortgages, entry 93; chattel mortgage minute book, entry 92, showing information as in entry 90. Arr. by name of mortgagee. Hdw. 600 pp. 18 x 12 x 3. Recr. vt.

92. CHATTEL MORTGAGE MINUTE RECORD, July 30, 1874-. 44 vols. (1-44).

Transcripts of mortgages executed to secure loans on personal property, showing dates of mortgage, maturity, recording, and satisfaction; names of mortgagor and mortgagee; amount and conditions of mortgage; location and description of property; and file drawer reference to chattel mortgages, entry 93. Arr. chron. by date of recording. Indexed alph. by names of mortgagor and mortgagee; also separate index, May 7, 1926-, entries 90, 91. Hdw. and typed. 600 pp. pp. 18 x 12 x 3. 30 vols., July 30, 1874-Jan. 3, 1930, attic strg. room; 14 vols., Jan. 4, 1930-, recr. vt.

93. CHATTEL MORTGAGES, June 12, 1935-. 48 f. d. (labeled Original chattel by contained letters of alphabet). mortgages, showing dates of mortgage, maturity, and filing; entry number; names of mortgagor and mortgagee; amount and conditions of mortgage; description of chattels; and volume and page reference to chattel mortgage record, entry 92. Arr. alph. by name of mortgagor. For index, see entries 90, 91. Hdw. 10 x 4 x 13. Recr. vt.

#### LIENS

94. RECORD OF MECHANIC LIENS, Aug. 6, 1856-Dec. 2, 1897. 2 vols. (1; 1 vol. unlabeled). Dec. 3, 1897-in Miscellaneous Record, entry 100.

Transcripts of mechanics' liens executed to insure payments for labor and material, showing dates of lien and recording, names of lienor and lienee, location and description of property, and amount of lien. Arr. chron. by date of lien. No index. Hdw. 200 pp. 13 x 9 x 3. Recr. vt.

95. DITCH RECORD, April 14, 1882-April 3, 1933. 3 vols. (1-3).

Record of liens filed against landowners who failed to pay total assessments, showing date of lien, filing, and payment; names of landowners and ditch; location and description of land assessed; and amounts of lien and payment. Arr. chron. by date of payment. No index. Hdw. 300 pp. 18 x 12 x 3. Recr. vt.

96. IMPROVED STOCK LIEN RECORD, July 13, 1896-May 6, 1907. 1 vol. (1).

Record of liens executed to insure payments of stallion service fees, showing dates of service and recording; names of lienor, horse, and lienee; description of dam; and amount of lien. Arr. chron. by date of recording. No index. Hdw. 290 pp. 18 x 12 x 2. Attic strg. room.

97. RECORDERS ABSTRACT OF OLD AGE ASSISTANCE CERTIFICATES FILED, June 25, 1936-. 1 vol. (1).

Abstracts of old-age assistance award certificates establishing liens against property of recipients, showing dates of certificate and recording; name and address of recipient; entry, certificate, and application numbers; and location and description of property. Indexed alph. by name of recipient. Hdw. 600 pp. 18 x 12 x 3. Recr. vt.

98. OLD-AGE CERTIFICATES, FILED, 1936-. 1 file cabinet. Copies of old-age assistance awards certificates, showing dates of certificate and filing, name and address of recipient, amount and conditions of monthly award, and application and certificate numbers. Arr. alph. by name of recipient. No index. Typed. 12 x 12 x 24. Recr. off.

99. RELEASE RECORD, Jan. 2, 1924-. 4 vols. (1-4). Oct. 29, 1850-Jan. 1, 1924 in Mortgage Record, entry 86.

Contains:

- i. Record of assignments of mortgages, showing dates of assignment, mortgage, and recording; names of mortgagor, mortgagee, assignor, and assignee; amount of fees; and volume and page reference to mortgage record, entry 86; and chattel mortgage minute record, entry 92.
- ii. Record of releases of liens and mortgages, showing dates of release and recording, names of principals, affidavits of satisfaction, and volume and page reference to mortgage record, entry 86; and chattel mortgage minute record, entry 92.

Arr. chron. by date of recording. No index. Typed. 600 pp. 18 x 12 x 3. Recr. vt.

MISCELLANEOUS RECORDS

100. MISCELLANEOUS RECORD, Aug. 5, 1856-. 19 vols. (1-19).

Contains:

- i. Affidavits, showing dates of affidavit and recording and name and statement of affiant.
- ii. Articles of incorporation, amendments to articles of incorporation, and dissolutions of corporations, showing dates of incorporation, amendment, dissolution, and recording; name of corporation; place of business; amount of capital stock; description of seal; and names of officers.
- iii. Bills of sale, showing dates of sale and recording, description and itemized list of property, names of assignor and assignee, and amount realized.
- iv. Mechanic liens, showing date of lien and recording, names of principals, description and location of property, and amount of lien.
- v. Occasional recording of many instruments of minor nature, showing dates of instrument and filing, nature and conditions of instrument, and names of principals.

- vi. Powers of attorney, showing dates of instrument and filing, names of principal or agent and notary public, and term and conditions of authorization.

Also contains: Record of mechanic liens, entry 94. Arr. alph. by names of principals. For index, see entry 101. Hdw. 1856-1901; typed 1902-. 600 pp. 18 x 12 x 3. Recr. vt.

101. GENERAL INDEX TO MISCELLANEOUS RECORDS, Aug. 5, 1856-. 2 vols. (1, 2).

Index to miscellaneous records, entry 100, showing dates of instrument and recording, names of principals, kind of instrument, and volume and page reference to recording. Arr. alph. by kind of instrument. Hdw. 600 pp. 18x 12 x 3. Recr. vt.

102. RECORDS OF INDENTURE, April 5, 1854-Aug. 17, 1872. 1 vol.

Record of indentures of apprenticeships, showing dates of indenture and recording, name and age of apprentice, names and addresses of parents or guardian and master, and conditions of agreement recorded. Arr. chron. by date of recording. Indexed alph. by name of apprentice. Hdw. 150 pp. 13½ x 8½ x 1. Attic strg. room.

103. SOLDIERS DISCHARGED RECORD, Aug. 2, 1865-. 2 vols. (1 vol. unlabeled; 2).

Transcripts of veterans' honorable discharges from service, showing date of recording; dates and places of enlistment and discharge; and name, age, color, date and place of birth, occupation at time of enlistment, physical description, branch of service, service record, and rank of veteran. Arr chron. by date of recording. Indexed alph. by name of veteran. Hdw. and typed. 362. 18 x 12 x 2. Recr.vt.

104. REGISTER OF FARM NAMES, July 23, 1913-April 15, 1939. 1 vol. (1).

Register of names assigned to farms for purpose of identifying farms and farm products, showing date of registration, names of farm and owner, and location and description of farm. Arr. chron. by date of registration. Indexed alph. by name of farm owner. Hdw. 252 pp. 9 x 13 x 2. Recr. vt.

105. STOCK MARKS, April 30, 1836-Jan. 8, 1873. 1 vol.

Record of marks and brands for identification of livestock, showing date of recording, name and address of owner, name of township, and description of mark or brand. Arr. alph. by name of t. and chron. thereunder by date of recording. No index. Hdw. 200 pp. 12½ x 8 x 1. Attic strg. room.

106. MISCELLANEOUS FILE BOXES, Feb. 12, 1912-. 50 f. b. (labeled by contained letters of alphabet).

Original instruments uncalled for after recording, showing



dates of instrument and recording, names of principals, and nature of instrument. Arr. alph. by nature or name of instrument. No index. Hdw. 10 x 4 x 13. Recr. off.

107. RECORD OF WILLS AND ORDERS OF COURT, Jan. 19, 1887-  
1 vol. (1).

Contains:

- i. Transcripts of wills filed for probate, showing dates of will, testator's death, and recording; names of testator, beneficiaries, witnesses and executor; location and description of property; cause number; and amounts of bequests.
- ii. Transcripts of judgments rendered in court actions in estate causes involving title to real property, showing cause number; dates of action, judgment, and recording; names of testator, plaintiff, defendant, attorneys, and witnesses; location and description of property; and judgment rendered.

Arr. chron. by date of recording. Indexed alph. by name of testator. Hdw. and typed. 600 pp. 18 x 12 x 3. Recr. vt.

#### FEE AND CASH RECORD

108. FEE AND CASH BOOK, Nov. 1, 1895-. 15 vols. (1 vol. unlabeled; 2, 3; 6 vols. dated; 6 vols. unlabeled).

Record of fees collected for recording miscellaneous instruments, showing date of payment, name of payer, kind of instrument, amount of fee, total receipts, and date and amount paid county treasurer. Arr. chron. by date of payment. No index. Hdw. 13 vols. 640 pp. 18 x 13 x 2½, Nov. 1, 1895-July 23, 1938, attic strg. room; 2 vols. 600 pp. 18 x 12 x 3, July 24, 1938-, recr. vt.

### V. CIRCUIT COURT

#### EVOLUTION AND STRUCTURAL ORGANIZATION

The circuit court, which has existed in Fulton County ever since 1836 under the requirements of the Constitution of 1816 and the Constitution of 1851, is presided over by one judge elected for a 6-year term by the voters of the judicial circuit.<sup>1</sup> Since May 16, 1927 Fulton County alone has

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<sup>1</sup> Const. 1851, art. 7, secs. 1, 8, 9. Acts 1881 (Spec. Sess.); Burns 4-301; Baldwin 1395. Acts 1925, 1929; Burns 4-3220; Baldwin 1258. See footnotes 17-19 herein.

constituted the forty-first judicial circuit.<sup>2</sup> The official name of the court is "Fulton Circuit Court."<sup>3</sup>

The judge of the circuit court is commissioned by the Governor of Indiana<sup>4</sup> and holds office until his successor is elected and qualified.<sup>5</sup> For 3 years next before his candidacy for election the judge must have been duly admitted to practice law in Indiana and also must have practiced or taught law or acted as an officer of the State or a municipality therein during said time (the periods of practice, teaching, and holding office to be combined).<sup>6</sup> During the term for which he was elected, the judge cannot hold any office of trust or profit under the State, other than a judicial office;<sup>7</sup> and, while holding the office of judge of the circuit court, the judge must reside within the circuit,<sup>8</sup> must not hold any other lucrative office,<sup>9</sup> and must not practice law.<sup>10</sup> He must take an oath that he will support the State and Federal Constitutions and will faithfully discharge the duties of his office.<sup>11</sup>

Statutes provide that the judge of the circuit court shall receive a regular salary in the amount of \$4,200 per year, payable monthly out of the State treasury.<sup>12</sup> The Constitution provides that an increase or decrease in the compensation of the judge cannot take effect until the expiration of the incumbent's term of office.<sup>13</sup>

If the judge be convicted of corruption or other high crime, he may, on any information in the name of the State, be removed from office by the Supreme Court.<sup>14</sup> This is the

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<sup>2</sup> Before May 16, 1927, Fulton County belonged to judicial circuits composed of more than one county. See footnote 29 herein.

<sup>3</sup> Acts 1881 (Spec. Sess.); Burns 4-302; Baldwin 1396.

<sup>4</sup> Const. 1851, art. 15, sec. 6. 1 Rev. Stat. 1852; Burns 49-201; Baldwin 13095.

<sup>5</sup> Const. 1851, art. 15, sec. 3.

<sup>6</sup> Acts 1939; Burns, 1941 suppl., 4-3224; Baldwin, 1939 suppl., 1223-1.

<sup>7</sup> Const. 1851, art. 7, sec. 16.

<sup>8</sup> *Ibid.*, sec. 9.

<sup>9</sup> Const. 1816, art. 11, sec. 13. Const. 1851, art. 2, sec. 9.

<sup>10</sup> Acts 1881 (Spec. Sess.), ch. 37, sec. 114. Acts 1905; Burns 10-3101; Baldwin 2635.

<sup>11</sup> Const. 1816, art. 11, sec. 1. Const. 1851, art. 15, sec. 4. Acts 1905; Burns 10-3708; Baldwin 2660. 1 Rev. Stat. 1852; Burns 49-101; Baldwin 13054.

<sup>12</sup> Acts 1921, 1941; Burns, 1941 suppl., 4-3209; Baldwin, 1941 suppl., 1225.

<sup>13</sup> Const. 1851, art. 7, sec. 13; art. 15, sec. 2 (as amended in 1926.)

<sup>14</sup> *Ibid.*, art. 7, sec. 12. Acts 1897; Burns 49-819; Baldwin 13152.

only method by which the judge may be removed from office.<sup>15</sup>

Any vacancy in the office of judge of the circuit court is filled through appointment by the Governor. At the next biennial general election (held on the first Tuesday after the first Monday in November in the even-numbered years), a judge is elected for the remainder of the term in which the vacancy occurred. The person appointed or elected to fill a vacancy must take oath as was required of his predecessor, and holds office until his successor is elected and qualified. If a person other than the appointee is elected for the unexpired term, the appointee may hold office until January 1 next after the election of his successor.<sup>16</sup>

With the organization of Fulton County in 1836,<sup>17</sup> there was established in the county, as required by the Constitution of 1816, a circuit court composed of a president judge and two associate judges. The president judge was elected for the circuit by joint ballot of both houses of the General Assembly. The associate judges were elected in the county by the voters thereof.<sup>18</sup> All judges were commissioned by the Governor and held office for the term of 7 years.<sup>19</sup> Recess appointments of president judges were made by the Governor when the General Assembly was not in session.<sup>20</sup> The president judge alone or any two judges could hold a court; but the presence of the president was required in capitol-punishment cases and cases in chancery. The president judge presided when he and one or both associate judges were present. The president judge could control the action of the court when he and one associate judge were present; and any two judges could control the action of the court when all three judges were present.<sup>21</sup> Since the adoption

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<sup>15</sup> *State v. Dearth*, 201 Ind. 1, 164 N. E. 489 (1929); *State ex rel. Youngblood v. Warrick* Circuit Court, 208 Ind. 594, 196 N. E. 254 (1935). Information obtained from Omer Stokes Jackson, Attorney General of Indiana, on July 29, 1939, by W. Davis Hamilton.

<sup>16</sup> Const. 1851, art. 5, sec. 18. Acts 1925, 1929; Burns 4-3220; Baldwin 1258. Acts 1881 (Spec. Sess.); Burns 29-701; Baldwin 7081. 1 Rev. Stat. 1852; Burns 49-402, 49-404, 49-408, 49-409; Baldwin 13101, 13103, 13106, 13107. *State ex rel. Custer v. Schortemeier*, 197 Ind. 507, 151 N. E. 407 (1926); *State ex rel. Middleton v. Scott* Circuit Court, 214 Ind. 643, 17 N. E. (2d) 464 (1938).

<sup>17</sup> *Fulton Organization Acts*. Acts 1834-35 (general), ch. 25, sec. 8. Acts 1835-36 (general), ch. 16, sec. 1.

<sup>18</sup> Const. 1816, art. 5, secs. 3, 7. Acts 1816-17, ch. 2, sec. 2; ch. 3, sec. 4; ch. 14, secs. 1, 8. Acts 1817-18 (general), ch. 2, sec. 2. Rev. L. 1824, ch. 24, sec. 2. Rev. L. 1831, ch. 22, sec. 2. Rev. Stat. 1838, ch. 23 sec. 2. Rev. Stat. 1843, ch. 38, secs. 1-4.

<sup>19</sup> Const. 1816, art. 5, sec. 4; art. 11, sec. 9.

<sup>20</sup> *Ibid.*, art. 4, sec. 9.

<sup>21</sup> *Ibid.*, art. 5, sec. 3. *Fuller v. State*, 1 Blackford 63 (1820); *Cook v. State*, 7 Blackford

of the Constitution of 1851, the circuit court has been presided over by one judge elected by the voters of the judicial circuit for a 6-year term.<sup>22</sup>

The circuit court existing under the Constitution of 1816 had original jurisdiction of naturalization proceedings under the Federal laws; all criminal cases under the State laws (except those punishable only by fine not exceeding \$3, of which the justices of the peace had exclusive original jurisdiction); all civil actions at law; and all equity cases (including suits for divorce).<sup>23</sup> This circuit court had appellate jurisdiction to review decisions of the board doing county business,<sup>24</sup> justices of the peace,<sup>25</sup> and the probate court.<sup>26</sup> Decisions of this circuit court were reviewable by the Supreme Court of Indiana.<sup>27</sup>

From 1836 until 1873 the circuit court had no jurisdiction of insanity inquests and commitments; the probate of wills; the granting and revocation of letters testamentary, letters of administration, and letters of guardianship; the administration of estates of decedents, minors, and insane persons; and the examination and allowance of accounts of executors, administrators, and guardians. Such jurisdiction was acquired by the circuit court in

165 (1844); *Miller v. Burger*, 2 Ind. 337 (1850).

<sup>22</sup> Const. 1851, art. 7, sec. 8. Acts 1881 (Spec. Sess.); Burns 4-301; Baldwin 1395.

<sup>23</sup> U. S. Stat. 2:153, 155 (law of 1802); 4:69 (law of 1824). Const. 1816, art. 5, sec. 3. Acts 1816-17, ch. 2, secs. 5-8; ch. 3, secs. 2, 3; ch. 4, sec. 19. Acts 1817-18 (general), ch. 2, secs. 5-7; chs. 3, 13. Acts 1821-22, ch. 73, sec. 4. Rev. L. 1824, ch. 24, secs. 4-6. Rev. L. 1831, ch. 22, sec. 3. Rev. Stat. 1838, ch. 23, secs. 3-7, 12; ch. 31, sec. 1. Rev. Stat. 1843, ch. 35, secs. 22-72; ch. 38, secs. 6-32. *Prentiss v. Porter*, 1 Blackford 525 (1822); *Mills v. Bradley*, 1 Blackford 541 (1827); *State v. Albertson*, 2 Blackford 251 (1829); *Bequette v. Lasselle*, 5 Blackford 443 (1840); *Sherry v. Winton*, 1 Ind. 96 (1848).

<sup>24</sup> Rev. Stat. 1838, ch. 21, secs. 28, 29; ch. 41, sec. 12. Rev. Stat. 1843, ch. 7, secs. 37-43; ch. 11, sec. 11; ch. 16, sec. 56; ch. 17, sec. 18. *Reddington v. Hamilton*, 8 Blackford 62 (1846); *Taylor v. Lucas*, 8 Blackford 289 (1846); *Malone v. Hardesty*, 1 Ind. 79 (1848).

<sup>25</sup> Acts 1816-17, ch. 5, sec. 18. Rev. Stat. 1838, ch. 4, sec. 5; ch. 6, secs. 5, 11; ch. 19, sec. 16; ch. 43, sec. 6; ch. 58, secs. 11, 80, 90; ch. 79, sec. 21. Rev. Stat. 1843, ch. 19, secs. 23, 46; ch. 23, sec. 10; ch. 35, sec. 162; ch. 41, secs. 11, 42, 43; ch. 42, sec. 63; ch. 43, secs. 9-13; ch. 45, secs. 173-176, 193, 216; ch. 47, secs. 159-182; ch. 55, sec. 21.

<sup>26</sup> See the essay entitled "Probate Court (1829-53)."

<sup>27</sup> Acts 1816-17, ch. 1, secs. 7, 13. Acts 1817-18 (general), ch. 1, secs. 7, 13. Rev. L. 1824, ch. 25, sec. 7; Rev. L. 1831, ch. 24, sec. 7. Rev. Stat. 1838, ch. 25, secs. 13, 19. Rev. Stat. 1843, ch. 37, secs. 1, 9, 70, 91.



1873 when the court of common pleas was abolished.<sup>28</sup>

From the organization of the Fulton Circuit Court until the present time, Fulton County has belonged to the following judicial circuits; April 1, 1836 to December 9, 1836, eighth circuit (Adams, Allen, Cass, Elkhart, Fulton, Huntington, Jay, Kosciusko, Lagrange, La Porte, Marshall, Miami, Noble, Porter, St. Joseph, and Wabash); December 9, 1836 to December 14, 1841, ninth circuit (Elkhart, Fulton, Kosciusko, Lake, La Porte, Marshall, Newton, Porter, Pulaski, St. Joseph, and Starke); December 14, 1841 to November 6, 1852, eighth circuit (Carroll, Cass, Fulton, Howard, Jasper, Miami, Pulaski, Tipton, Wabash, and White); November 6, 1852 to March 6, 1873, ninth circuit (Carroll, Cass, Fulton, Howard, Jasper, Lake, La Porte, Marshall, Miami, Porter, Pulaski, St. Joseph, Starke, and White); March 6, 1873 to March 9, 1875 thirty-third circuit (Fulton, Kosciusko, and Marshall); and March 9, 1875 to the present time, forty-first circuit (Fulton and Marshall). Every county that was in the designated circuit at any time during the designated periods is shown above. There were numerous transfers of counties to and from the circuits during those periods. Before May 16, 1927 Fulton County belonged to judicial circuits always composed of more than one county. Ever since May 16, 1927 Fulton County alone has constituted the forty-first circuit.<sup>29</sup>

#### FUNCTIONS AND RECORDS

The circuit court has original jurisdiction of naturalization proceedings under the Federal laws; all criminal cases under the State laws (except those punishable only by fine not exceeding \$3, of which the justices of the peace have exclusive original jurisdiction); proceedings to punish the violators of town ordinances; all civil actions at laws; all suits in equity; <sup>30</sup> divorce

<sup>28</sup> See the essays entitled "Probate Court (1836-53)" and "Court of Common Pleas (1853-73)."

<sup>29</sup> Acts 1832-33, ch. 3, sec. 1. Acts 1834-35 (general), ch. 23, sec. 7. Acts 1835-36 (general), ch. 8, sec. 3; ch. 15, sec. 7; ch. 16, sec. 7; ch. 17, sec. 7; ch. 18, sec. 5; ch. 20, sec. 7; ch. 21, sec. 8. Acts 1836-37 (general), ch. 8, secs. 2, 4; ch. 17. Acts 1836-37 (local), ch. 192, sec. 1. Rev. Stat. 1838, ch. 23 (eighth act), p. 170, sec. 3. Acts 1838-39 (general), ch. 2, sec. 1. Acts 1840-41 (general), ch. 19, sec. 1; ch. 25, sec. 1. Acts 1841-42 (general), ch. 28, sec. 1. Acts 1843-44 (general), ch. 3, sec. 13. Acts 1844-45 (general), ch. 44, sec. 1. Acts 1848-49 (general), ch. 40, sec. 1. Acts 1851-52, ch. 21, sec. 9. Acts 1853, ch. 23, secs. 1, 4. Acts 1855, ch. 25, sec. 1. Acts 1873, ch. 29, sec. 34. Acts 1875, ch. 35, sec. 3. Acts 1927, ch. 12, sec. 1.

<sup>30</sup> Acts 1881 (Spec. Sess.); Burns 4-303; Baldwin 1397. State ex rel. Robertson v. Lake Circuit Court, 215 Ind. 18, 17 N. E. (2d) 805 (1939).



and alimony proceedings;<sup>31</sup> declaratory judgment proceedings;<sup>32</sup> juvenile matters;<sup>33</sup> insanity inquests and commitments;<sup>34</sup> election contests;<sup>35</sup> proceedings for removal of county officers;<sup>36</sup> quo warranto proceedings;<sup>37</sup> proceedings for mandate, prohibition,<sup>38</sup> and injunctions;<sup>39</sup> proceedings to quiet title to real

Legislature's power to prescribe jurisdiction. *Board of County Comrs. v. Albright*, 168 Ind. 564, 81 N. E. 578 (1907).

Naturalization proceedings. U. S. Stat., 2:153, 155 (law of 1802); 4:69 (law of 1824). U. S. C., title 8, sec. 357 (laws of 1906, 1911, 1913).

Criminal cases within exclusive jurisdiction of justices of the peace. Acts 1905; Burns 9-711, 9-715; Baldwin 2080, 2084.

Proceedings to punish violators of town ordinances. Acts 1905; Burns 48-401; Baldwin 11359.

Power to declare statute unconstitutional. *State v. Clements*, 215 Ind. 666, 22 N. E. (2d) 819 (1939).

"Courts are bound to declare the law to be that which the General Assembly, acting within its constitutional power, enacts, be it wise or foolish as measured by our personal views, and even though it shocks our sense of justice and fairness." *State v. Brown*, 213 Ind. 118, 124, 11 N. E. (2d) 679 (1937).

<sup>31</sup> Acts 1881 (Spec. Sess.); Burns 4-303; Baldwin 1397. Acts 1873, 1933; Burns 3-1203, 3-1217; Baldwin 904, 926. Acts 1903; Burns 3-1232; Baldwin 935. Acts 1881 (Spec. Sess.); Burns 4-303; Baldwin 1397. *Argiroff v. Argiroff*, 215 Ind. 297, 19 N. E. (2d) 560 (1939); *McHie v. McHie*, 106 Ind. App. 152, 16 N. E. (2d) 987 (1938).

<sup>32</sup> Acts 1927; Burns 3-1101 to 3-1116; Baldwin 438-453.

<sup>33</sup> Acts 1867, ch. 67 (misnumbered 62), secs. 10-19, 22, 23. Acts 1869 (Spec. Sess.), ch. 32, secs. 19-26, 35, 36. Acts 1872 (Spec. Sess.), ch. 30. Acts 1875, ch. 45. Acts 1879, ch. 58. Acts 1903, 237, sec. 1. Acts 1913, ch. 325, sec. 1. Acts 1931, ch. 43, sec. 1. Acts 1935, ch. 243, sec. 1. Acts 1937, ch. 298, sec. 1. Acts 1941, ch. 233. *Dumes v. Deckard*, 105 Ind. App. 674, 17 N. E. (2d) 481 (1938).

<sup>34</sup> 2 Rev. Stat. 1852, Acts 1895; Burns 8-202 *et seq.*; Baldwin 3460 *et seq.* Acts 1855; Burns 22-1401 *et seq.* Baldwin 1081 *et seq.* Acts 1939; Burns, 1941 suppl., 22-1742; Baldwin, 1939 suppl., 4227-2.

<sup>35</sup> Acts 1941; Burns, 1941 suppl., 29-2123; Baldwin, 1941 suppl., 7401-3. Acts 1933, 1935; Burns, 1941 suppl., 29-2301 to 29-2309; Baldwin, 1935 suppl., 7428 to 7435, 7427-1. *State ex rel. Lord v. Sullivan*, 214 Ind. 279, 15 N. E. (2d) 384 (1938).

<sup>36</sup> Const. 1851, art. 2, secs. 6, 7; art. 6, sec. 8. Acts 1897, 1899; Burns 49-821 to 49-834, 49-836; Baldwin 13154 to 13166, 13050, 13168. Acts 1875; Burns 49-837; Baldwin 13052. *Bateman v. State*, 214 Ind. 138, 14 N. E. (2d) 1007 (1938).

<sup>37</sup> Acts 1831 (Spec. Sess.), 1929; Burns 3-2001 to 3-2016; Baldwin 1045, 1046, 1054, 1047 to 1053, 1055 to 1060

<sup>38</sup> Acts 1831 (Spec. Sess.), 1911, 1915, 1933; Burns 3-2201 to 3-2208; Baldwin 1090 to 1093, 1095, 1095-1, 1096, 1097.

<sup>39</sup> Acts 1831 (Spec. Sess.), 1899; Burns 3-2101 to 3-2120; Baldwin 1061 to 1080.

estate;<sup>40</sup> partition proceedings;<sup>41</sup> exeat proceedings;<sup>42</sup> habeas corpus proceedings;<sup>43</sup> proceedings to commit persons to hospitals operated by Indiana University;<sup>44</sup> eminent domain proceedings;<sup>45</sup> proceedings to establish drainage districts and assessments;<sup>46</sup> proceedings for change of names of persons;<sup>47</sup> adoption proceedings;<sup>48</sup> birth registration proceedings;<sup>49</sup> receiverships;<sup>50</sup> bastardy proceedings;<sup>51</sup> guardianships;<sup>52</sup> probate of wills;<sup>53</sup> and administration of estates of decedents,<sup>54</sup> minors, and insane persons.<sup>55</sup> The circuit court is known as the "Juvenile Court" when exercising jurisdiction of juvenile matters.<sup>56</sup> In connection with its jurisdiction to administer decedents' estates, the court administers certain provisions of the inheritance tax laws.<sup>57</sup>

The circuit court has appellate jurisdiction<sup>58</sup> to review

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<sup>40</sup> Acts 1881 (Spec. Sess.), 1911, 1915; Burns 3-1401 to 3-1410, Baldwin 966, 3303, 3304, 967, 942, 943, 970, 969, 968, 968 note, Acts 1935; Burns, 1941 suppl., 3-1417, 3-1418; Baldwin, 1935 suppl., 558-1, 558-2. Grantham Realty Corp. v. Bowers, 215 Ind. 672, 22 N. E. (2d) 832 (1939).

<sup>41</sup> 2 Rev. Stat. 1852, Acts 1881 (Spec. Sess.), 1897; Burns 3-2401 *et seq.*; Baldwin 1106 *et seq.*

<sup>42</sup> Acts 1881 (Spec. Sess.); Burns 3-2301 to 3-2307; Baldwin 1102, 1105, 1098, 1099, 1100, 1101, 1103.

<sup>43</sup> Acts 1881 (Spec. Sess.); Burns 3-1901 to 3-1925; Baldwin 1020 *et seq.* Kunkel v. Moneyhon, 214 Ind. 606, 17 N. E. (2d) 82 (1938); Cook v. Rodger, 215 Ind. 500, 20 N. E. (2d) 933 (1939).

<sup>44</sup> Acts 1939; Burns, 1941 suppl., 28-5417; Baldwin, 1939 suppl., 14078-89c.

<sup>45</sup> Acts 1905, 1935; Burns, 1941 suppl., 3-1702; Baldwin, 1935 suppl., 14062. Acts 1905; Burns 3-1707; Baldwin 14068. Southern Indiana Gas & Elec. Co. v. Boonville, 215 Ind. 552, 20 N. E. (2d) 648 (1939).

<sup>46</sup> Acts 1933; Burns 27-104, 27-109, 27-116, 27-122, 27-134; Baldwin 5740, 5745, 5752, 5758, 5770. Penn v. Ducomb, 213 Ind. 133, 12 N. E. (2d) 116 (1938).

<sup>47</sup> 2 Rev. Stat. 1852, Acts 1905; Burns 3-801 to 3-805; Baldwin 869 to 873.

<sup>48</sup> Acts 1855, 1883; Burns 3-101, 3-103; Baldwin 681, 684.

<sup>49</sup> Acts 1941; Burns, 1941 suppl., 3-2901 to 3-2907; Baldwin, 1941 suppl., 8405-1 to 8405-7.

<sup>50</sup> Acts 1881 (Spec. Sess.); Burns 3-2601 *et seq.*; Baldwin 1143 *et seq.* H-A Circus Operating Corp. v. Silberstein, 215 Ind. 413, 19 N. E. (2d) 1013 (1939).

<sup>51</sup> 2 Rev. Stat. 1852; Burns 3-606 to 3-614, 3-616; Baldwin 851, 855, 856, 859, 852, 854, 857, 858, 860, 865. 2 Rev. Stat. 1852; Acts 1877, 1935; Burns, 1941 suppl., 3-605, 3-615; Baldwin, 1935 suppl., 850, 861.

<sup>52</sup> Acts 1881 (Spec. Sess.); Burns 4-303; Baldwin 1397. 2 Rev. Stat. 1852; Burns 8-101 *et seq.* 8-201 *et seq.*; Baldwin 3418 *et seq.*, 3459 *et seq.* Acts 1911; Burns 8-301 *et seq.*; Baldwin 3472 *et seq.* Acts 1867; Burns 8-401 to 8-403; Baldwin 3476 to 3478.

<sup>53</sup> Acts 1881 (Spec. Sess.); Burns 4-303; Baldwin 1397. 2 Rev. Stat. 1852; Burns 7-401, 7-414, 7-503, 7-506; Baldwin 3376, 3388, 3393, 3401. Acts 1911, 1921, 1933; Burns 7-504; Baldwin 3395

<sup>54</sup> Acts 1881 (Spec. Sess.); Burns 4-303; Baldwin 1397

<sup>55</sup> See footnotes 34 and 52 herein.

<sup>56</sup> See footnote 33 herein.

<sup>57</sup> Acts 1931, 1933; Burns 6-2408, 6-2410, 6-2413, 6-2415; Baldwin 15946, 15948, 15951, 15953, Acts 1931, 1933, 1937; Burns, 1941 suppl., 6-2407; Baldwin, 1937 suppl., 15945.

<sup>58</sup> Acts 1881 (Spec. Sess.); Burns 4-303; Baldwin 1397.

decisions of justices of the peace;<sup>59</sup> city courts;<sup>60</sup> board of commissioners;<sup>61</sup> board of commissioners and county council acting jointly concerning condemnation of schoolhouses;<sup>62</sup> board of review fixing value of property for taxation;<sup>63</sup> taxing authorities determining that property is taxable;<sup>64</sup> board of public works or board of park commissioners of any city in the county (or city council performing such functions);<sup>65</sup> and other inferior tribunals when no express direction is given as to the court to which the appeal lies.<sup>66</sup>

The circuit court has power to make all proper judgments, sentences, decrees, orders, and injunctions; to punish for contempt; to issue all process necessary for the exercise of its jurisdiction (including process to inferior courts);<sup>67</sup> and to adopt rules for conducting its business,<sup>68</sup> decisions of the circuit court are reviewable by the Supreme Court of Indiana or the Appellate Court of Indiana.<sup>69</sup>

The judge of the circuit court is a conservator of the peace throughout his judicial circuit,<sup>70</sup> and takes all necessary recognizances to keep the peace "or to answer any criminal charge or offense in the court having jurisdiction."<sup>71</sup> He is a member of the commission of public records.<sup>72</sup> He appoints

<sup>59</sup> 2 Rev. Stat. 1852; Burns 5-1001; Baldwin 1931.

<sup>60</sup> Acts 1905; Burns 4-2415; Baldwin 2390. Acts 1917; Burns 4-2603; Baldwin 11608. Acts 1921; Burns 4-2702; Baldwin 12172. Acts 1923; Burns 4-2802; Baldwin 12336.

<sup>61</sup> Acts 1859, 1939, 1941; Burns, 1941 suppl., 26-701; Baldwin, 1941 suppl., 16055. Acts 1879 (Spec. Sess.), 1885; Burns 26-820; Baldwin 5275. 1 Rev. Stat. 1852; Burns 26-901; Baldwin 5277. Acts 1933; Burns 27-117; Baldwin 5753. Acts 1905; Burns 36-1501; Baldwin 8858. State ex rel. Sink v. Cass Circuit Court, 214 Ind. 323, 15 N. E. (2d) 624 (1938).

<sup>62</sup> Acts 1931; Burns 28-3005; Baldwin 6147.

<sup>63</sup> Acts 1927; Burns 64-1020; Baldwin 15686.

<sup>64</sup> Acts 1919, 1927; Burns 64-2103; Baldwin 15804.

<sup>65</sup> Acts 1933; Burns 48-4501; Baldwin 11576.

<sup>66</sup> Hamilton v. Fort Wayne, 73 Ind. 1 (1880).

<sup>67</sup> 2 Rev. Stat. 1852; Burns 4-305 to 4-307, 4-312; Baldwin 1398 to 1400, 1405.

Contempt. Universal Credit Co. v. Talcott, 213 Ind. 228, 12 N. E. (2d) 141 (1938).

<sup>68</sup> 2 Rev. Stat. 1852; Burns 4-313; Baldwin 1406.

<sup>69</sup> 2 Rev. Stat. 1852, ch. 1, sec. 550, p. 158. Acts 1901, 1907, 1915, 1925; Burns 4-214; Baldwin 1356.

<sup>70</sup> Const. 1816, art. 5, sec. 5. Const. 1851, art. 7, sec. 15.

<sup>71</sup> 2 Rev. Stat. 1852; Burns 4-314; Baldwin 1407. State v. Cooper, 90 Ind. 575 (1883).

<sup>72</sup> Acts 1939; Burns, 1941 suppl., 49-3701; Baldwin, 1939 suppl., 5492-1.

one member of the county school fund board,<sup>73</sup> five members of the county board of public welfare,<sup>74</sup> two members of the county board of review,<sup>75</sup> and four members of the county board of tax adjustment.<sup>76</sup> He appoints eight members of the county hospital governing board,<sup>77</sup> three members of the county public library board,<sup>78</sup> and five trustees of a sanitary district,<sup>79</sup> when such boards and districts exist in the county. He may appoint two tobacco inspectors for the county,<sup>80</sup> special prosecuting attorneys (in case of disqualification or failure to attend court),<sup>81</sup> special county commissioners (in case of disqualification),<sup>82</sup> a probate commissioner,<sup>83</sup> and attorneys to represent poor persons in the circuit court.<sup>84</sup> He approves the official bonds of the prosecuting attorney,<sup>85</sup> the county director of public welfare,<sup>86</sup> and collection agencies.<sup>87</sup> He makes certificates of "qualification and moral character" concerning persons applying to the Governor of Indiana for appointments as notaries public.<sup>88</sup> He can solemnize marriages,<sup>89</sup> administer oaths,<sup>90</sup> take acknowledgments and proofs of deeds and other

<sup>73</sup> Acts 1865, 1935; Burns, 1941 suppl., 28-209; Baldwin, 1935 suppl., 6558.

<sup>74</sup> Acts 1936 (Spec. Sess.), 1937; Burns, 1941 suppl., 52-1118; Baldwin, 1937 suppl., 14078-19.

<sup>75</sup> Acts 1895, ch. 36, sec. 2. Acts 1919, 1920 (Spec. Sess.); Burns 64-1201; Baldwin 15700.

<sup>76</sup> Acts 1932 (Spec. Sess.); ch. 10, sec. 4. Acts 1933, ch. 237, sec. 4. Acts 1937; Burns,

1941 suppl., 64-310; Baldwin, 1937 suppl., 15897-4.

<sup>77</sup> Acts 1903, 1939; Burns, 1941 suppl., 22-3203; Baldwin, 1939 suppl., 4569.

<sup>78</sup> Acts 1917, 1921, 1927, 1939; Burns, 1941 suppl., 41-510; Baldwin, 1939 suppl., 10321.

<sup>79</sup> Acts 1913, 1919, 1931; Burns 48-4102; Baldwin 11721.

<sup>80</sup> Acts 1857; Burns 67-308; Baldwin 9461.

<sup>81</sup> Rev. L. 1824, ch. 24, sec. 12. Acts 1833-34, ch. 92, secs. 1-4. Rev. Stat. 1838, ch. 9 (second act), secs. 1-4. Acts 1851-52, ch. 8, sec. 5. 2 Rev. Stat. 1852; Burns 49-2505; Baldwin 5461. *Perfect v. State*, 197 Ind. 401, 141 N. E. 52 (1926); *State ex rel. Williams v. Ellis*, 184 Ind. 307, 112 N. E. 98 (1916); *State ex rel. Spencer v. Marion Criminal Court*, 214 Ind. 551, 15 N. E. (2d) 1020 (1938).

<sup>82</sup> Acts 1913; Burns 26-614 to 26-616; Baldwin 5229 to 5231.

<sup>83</sup> Acts 1891, 1897, 1911; Burns 6-104; Baldwin 3015.

<sup>84</sup> Acts 1881 (Spec. Sess.); Burns 2-211; Baldwin 26. Acts 1913; Burns 2-1417; Baldwin 189.

Acts 1905; Burns 9-1314; Baldwin 2235. *Op. Atty. Gen.* 1939, p. 351.

<sup>85</sup> 2 Rev. Stat. 1852; Burns 49-2502; Baldwin 5458.

<sup>86</sup> Acts 1936 (Spec. Sess.), 1937; Burns, 1941 suppl., 52-1119; Baldwin, 1937 suppl., 14078-20.

<sup>87</sup> Acts 1937; Burns, 1941 suppl., 10-5001; Baldwin, 1937 suppl., 2468-5.

<sup>88</sup> 1 Rev. Stat. 1852, Acts 1855; Burns 49-3503; Baldwin 13016.

<sup>89</sup> Acts 1897; Burns 44-301; Baldwin 5621.

<sup>90</sup> 2 Rev. Stat. 1852; Burns 4-312; Baldwin 1405. Acts 1861; Burns 49-601; Baldwin 13053.



documents,<sup>91</sup> waive certain provisions of the marriage license law requiring laboratory tests and medical certificates,<sup>92</sup> issue licenses for carrying pistols,<sup>93</sup> and certify as to the authenticity of transcripts of the records and proceedings of the court.<sup>94</sup>

In pursuance of appropriations by the county council,<sup>95</sup> the judge of the circuit court may make allowances against the county for expense of administration of justice.<sup>96</sup> Such allowances include compensation of witnesses,<sup>97</sup> jurors,<sup>98</sup> master commissioner,<sup>99</sup> sheriff,<sup>100</sup> bailiffs,<sup>101</sup> court reporter,<sup>102</sup> court page,<sup>103</sup> and attorneys appointed to represent poor persons.<sup>104</sup>

An act of 1927 provides for two terms of court each year in Fulton County. The first term begins on the first Monday of January and ends on the last Saturday of June. The second term begins on the second Monday of September and ends on the third Saturday of December.<sup>105</sup> Many laws were enacted by the Legislature before 1927 for the purpose of regulating the commencement and duration of terms of court in Fulton County.<sup>106</sup>

If on account of death, sickness, or other casualty the judge of the circuit court fails for 3 consecutive days to attend court during termtime, the auditor, sheriff, and clerk of the circuit court, acting together, may appoint a temporary

<sup>91</sup> 1 Rev. Stat. 1852, Acts 1859; Burns 56-123; Baldwin 14674.

<sup>92</sup> Acts 1939; Burns, 1941 suppl., 44-213; Baldwin, 1939 suppl., 5624-1.

<sup>93</sup> Acts 1935, 1937; Burns, 1941 suppl., 10-4738; Baldwin, 1937 suppl., 2569-5.

<sup>94</sup> Acts 1881 (Spec. Sess.); Burns 2-1605, 2-1617, 2-3106; Baldwin 273, 258, 459. Acts 1881 (Spec. Sess.), 1929; Burns 2-2520; Baldwin 392. Acts 1903, 1933; Burns 2-3112; Baldwin 466. 2 Rev. Stat. 1852; Burns 4-307; Baldwin 1400. Acts 1905; Burns 9-2103; Baldwin 2315.

<sup>95</sup> Acts 1899; Burns 26-515, 26-527; Baldwin 5379, 5391.

<sup>96</sup> Acts 1879 (Spec. Sess.); Burns 49-1432, 49-1434; Baldwin 13127, 13128.

Change of venue from county. Acts 1905; Burns 9-1312 to 9-1315; Baldwin 2233 to 2236.

Blank books and stationery. 2 Rev. Stat. 1852; Burns 49-2709; Baldwin 1436.

<sup>97</sup> 1 Rev. Stat. 1852; Burns 9-2408; Baldwin 1306.

<sup>98</sup> Acts 1881 (Spec. Sess.), 1913, 1927, 1933; Burns 4-3319; Baldwin 1277.

<sup>99</sup> Acts 1881 (Spec. Sess.), 1903; Burns 4-3407; Baldwin 1286.

<sup>100</sup> Acts 1895, 1905, 1915, 1919; Burns 49-1311; Baldwin 7570.

Change of venue from county. Acts 1905; Burns 9-1315; Baldwin 2236.

<sup>101</sup> Acts 1921, 1925; Burns, 1941 suppl., 4-3107; Baldwin, 1935 suppl., 1256. Acts 1895, 1905, 1915, 1919; Burns 49-1311; Baldwin 7570. 2 Rev. Stat. 1852; Burns 49-2804; Baldwin 5496. Op. Atty. Gen. 1939, p. 312.

<sup>102</sup> Acts 1921, 1939; Burns, 1941 suppl., 4-3507; Baldwin, 1939 suppl., 1298-1. Acts 1893;

Burns 4-3511; Baldwin 1200.

<sup>103</sup> Op. Atty. Gen. 1939, p. 312.

<sup>104</sup> Acts 1881 (Spec. Sess.); Burns 2-211, 2-212; Baldwin 26, 27. Acts 1905; Burns 9-1314; Baldwin 2235. Op. Atty. Gen. 1939, p. 351.

<sup>105</sup> Acts 1927, ch. 12, sec. 1.

<sup>106</sup> Acts 1835-36 (general), ch. 8, sec. 3. Acts 1836-37 (general), ch. 8, sec. 4. Rev.



judge to serve until the return of the regular judge or until his successor is named.<sup>107</sup>

If for nine months the regular judge is incapable (on account of sickness, mental incapacity, or otherwise) of discharging his duties, and the clerk certifies that the facts to the Secretary of State, the Governor may appoint some practicing attorney within the circuit to serve as judge *pro tempore* during the continuance of the disability of the regular judge.<sup>108</sup>

If the regular judge is disqualified in any particular cause by prejudice, relationship, or interest, and no party objects to the regular judge making nominations for a special judge, the regular judge may designate the names of three other judges or attorneys, and the plaintiff and defendant may each strike one of such names. The person whose name remains after such striking may serve as special judge in that particular cause. If a party objects to the regular judge making such nominations, the clerk certifies the facts to the Clerk of the Supreme Court, who, acting under the direction of the Supreme Court, selects the names of three persons; and each party may strike one name as aforesaid. If the parties agree on the selection of a special judge, the regular judge will appoint the person thus selected.<sup>109</sup>

The judge of the fifth judicial district of the Supreme Court of Indiana (Michael L. Fansler) may preside at the trial on any case pending in Fulton Circuit Court when the judge of the latter court is "incompetent to preside."<sup>110</sup>

The sheriff, in person or by deputy, attends the circuit court, preserves order therein, makes announcements for the court, calls witnesses to the courtroom, and executes all

Stat. 1838, ch. 23 (eighth act), p. 169, sec. 2 Acts 1838-39 (general), ch. 2, sec. 10; ch. 5. Acts 1840-41 (general), ch. 19, sec. 1. Acts 1841-42 (general), ch. 28, sec. 2. Acts 1842-43 (general), ch. 3, sec. 1. Acts 1844-45 (general), ch. 44, sec. 2. Acts 1846-47 (general), ch. 64, secs. 1, 2. Acts 1847-48 (general), ch. 89, secs. 1, 2. Acts 1848-49 (general), ch. 39, secs. 1, 2. Acts 1851-52, ch. 22, sec. 1; ch. 23, sec. 1. Acts 1853, ch. 27, secs. 1, 2. Acts 1855, ch. 23, secs. 1, 2. Acts 1859, ch. 31, secs. 1, 2. Acts 1873, ch. 29, sec. 72. Acts 1875, ch. 35, sec. 6. Acts 1877, ch. 28, sec. 1. Acts 1887, ch. 38, sec. 1. Acts 1899, ch. 8, sec. 1. Acts 1905, ch. 144, sec. 1. Acts 1907, ch. 30, sec. 1. Acts 1911, ch. 191, sec. 1.

<sup>107</sup> 2 Rev. Stat. 1852, ch. 4, secs. 4, 17, pp. 6, 7. Acts 1855; Burns 4-317; Baldwin 1423. Acts 1881 (Spec. Sess.); Burns 4-3103; Baldwin 1261.

<sup>108</sup> Acts 1871; Burns 4-317 to 4-319; Baldwin 1423 to 1425.

<sup>109</sup> 2 Rev. Stat. 1852, ch. 4, secs. 3, 4, pp. 5, 6. Acts 1905, 1907; Burns 2-1409; Baldwin 207. Acts 1881 (Spec. Sess.), 1921, 1932 (Spec. Sess.), 1941; Burns, 1941 suppl., 2-1416; Baldwin, 1941 suppl., 209. Acts 1937; Burns, 1941 suppl., 2-1424 to 2-1430, 9-1316 to 9 1325; Baldwin 1937 suppl., 207-1 to 207-5, 194-1, 2223-1, 2222-1 to 2222-5, 2223-2 to 2223-5. State ex rel. Daily v. Harrison, 215 Ind. 106, 18 N. E. (2d) 770 (1939); State ex rel. Elston v. Decker, 215 Ind. 457, 20 N. E. (2d) 179 (1939).

<sup>110</sup> Acts 1872 (Spec. Sess.); Burns 4-102; Baldwin 1308. 2 Rev. Stat. 1852; Burns 4-113;

process of the court.<sup>111</sup> Bailiffs (appointed by the judge as needed) wait on the grand juries and petit juries and preserve order during their proceedings and deliberations. If no bailiff is appointed, the sheriff or his deputy perform these duties.<sup>112</sup> In the event of the absence, personal interest, or incapacity of the sheriff, or vacancy in his office, the coroner performs these duties of the sheriff;<sup>113</sup> and in the event also of the absence, personal interest, or incapacity of the coroner, or vacancy in his office, the judge appoints an elisor to perform these duties of the sheriff.<sup>114</sup>

The prosecuting attorney acts as attorney for the State in criminal cases under State laws and as attorney for the county and State in certain civil cases.<sup>115</sup>

The probation officer (appointed by the judge for an indefinite term when needed) makes investigations and reports in criminal and juvenile matters as directed by the court, and supervises the conduct of persons on probation.<sup>116</sup> The county director of public welfare performs duties of the probation officer when so directed by the court.<sup>117</sup>

The court reporter (appointed by the judge for an indefinite term) takes down in shorthand, and thereafter transcribes into typewriting, as directed by the court or the parties, the oral evidence, rulings, instructions to the jury, and other proceedings of the court.<sup>118</sup>

Two jury commissioners (annually appointed by the judge

Baldwin 1321. *Rooster of State and Local Officials of the State of Indiana, 1941, Second Edition*, p. 21. Information obtained from Paul Stump, Clerk of the Supreme Court, on April 26, 1940, by W. Davis Hamilton.

<sup>111</sup> 2 Rev. Stat. 1852; Burns 49-2802; Baldwin 5494. See the essay entitled "Sheriff."

<sup>112</sup> 1 Rev. Stat. 1852, ch. 3, sec. 4. 2 Rev. Stat. 1852, ch. 6, sec. 4, p. 11. Acts 1879, ch. 51, sec. 26. Acts 1881 (Spec. Sess.), ch. 36, sec. 353; ch. 50, sec. 1. Acts 1895, ch. 145, sec. 122. Acts 1899, chs. 83, 112. Acts 1905, ch. 155. Acts 1915, ch. 172. Acts 1919, ch. 134. Acts 1921, ch. 146. Acts 1921, 1935; Burns, 1941 suppl., 4-3107; Baldwin, 1935 suppl., 1256. Acts 1905; Burns 9-1501, 9-1810; Baldwin 2246, 2290. *Adams v. State*, 214 Ind. 603, 17 N. E. (2d) 84 (1938). Op. Atty. Gen. 1939, p 312.

<sup>113</sup> 2 Rev. Stat. 1852; Burns 49-2902; Baldwin 5437.

<sup>114</sup> 2 Rev. Stat. 1852; Burns 4-322, 4-323; Baldwin 1411, 1412.

<sup>115</sup> 2 Rev. Stat. 1852; Burns 49-2501; Baldwin 5456. *Freed v. Martin* Circuit Court, 214 Ind. 152, 14 N. E. (2d) 910 (1938); *State ex rel. Spencer v. Marion Criminal Court*, 214 Ind. 551, 15 N. E. (2d) 1020 (1938). See the essay entitled "Prosecuting Attorney."

<sup>116</sup> Acts 1903, ch. 237, sec. 2. Acts 1925, ch. 218. Acts 1927; Burns 9-2212, 9-2213; Baldwin 2363, 2364. See the essay entitled "Probation Officer."

<sup>117</sup> Acts 1936 (Spec. Sess.); Burns, 1941 suppl., 52-1120; Baldwin, 1937 suppl., 14078-21. See the essay entitled "County Department of Public Welfare."

<sup>118</sup> Acts 1881 (Spec. Sess.), ch. 89. Acts 1899, 1927; Burns 4-3501 to 4-3511; Baldwin 1288

prepare lists of names from which grand juries and petit juries are drawn.<sup>119</sup>

The court page (appointed by the judge for an indefinite term when needed) serves as messenger for the judge and clerk, and performs other minor duties assigned to him by the judge.<sup>120</sup>

The clerk of the circuit court, in person or by deputy, performs numerous duties for the circuit court. All new actions and proceedings of the circuit court are filed in the office of the clerk, and are numbered in consecutive order as filed.<sup>121</sup> He is charged by statute with the duty of keeping and preserving the official records of the court.<sup>122</sup>

The clerk files pleadings and other court papers and endorses thereon the time of such filing.<sup>123</sup> He issues summonses,<sup>124</sup> notices for service by publication,<sup>125</sup> notices of birth registration proceedings,<sup>126</sup> attachment writs,<sup>127</sup> garnishment writs,<sup>128</sup> replevin writs,<sup>129</sup> ejectment writs,<sup>130</sup>

to 1292, 1298, 1298-1, 1776, 1297-1. 1293, 1300. *Adams v. State*, 214 Ind. 603, 17 N. E. (2d) 84 (1938).

<sup>119</sup> Acts 1881 (Spec. Sess.), 1899, 1913; Burns 4-3301, 4-3306; Baldwin 1266, 1270. Acts 1881 (Spec. Sess.), 1939; Burns, 1941 suppl., 4-3304; Baldwin, 1939 suppl., 1267. *Crickmore v. State*, 213 Ind. 586, 12 N. E. (2d) 266 (1938); *Johnson v. State*, 213 Ind. 659, 14 N. E. (2d) 96 (1938); *Foreman v. State*, 214 Ind. 79, 14 N. E. (2d) 546 (1938). See the essay entitled "Jury Commissioners."

<sup>120</sup> *Dunn v. State ex rel. Corydon*, 204 Ind. 390, 184 N. E. 535 (1933). *Op. Atty. Gen.* 1939, p. 312.

<sup>121</sup> Acts 1881 (Spec. Sess.); Burns 2-1053; Baldwin 158. 2 Rev. Stat. 1852; Burns 49-2706; Baldwin 1433. See the essay entitled "Clerk of the Circuit Court."

<sup>122</sup> 2 Rev. Stat. 1852; Burns 49-2706; Baldwin 1433.

<sup>123</sup> Acts 1816-17, ch. 2, sec. 12; ch. 4, sec. 28; ch. 5, secs. 1, 2, 18. Acts 1817-18 (general), ch. 4, sec. 17. Rev. L. 1824, ch. 73, secs. 1, 7, 15, 27; ch. 74, secs. 1, 18-21, 33, 41; ch. 79, secs. 8, 38. Rev. Stat. 1843, ch. 38, sec. 49. Acts 1881 (Spec. Sess.); Burns 2-802, 2-1641; Baldwin 83, 288. 2 Rev. Stat. 1852; Burns 49-2706; Baldwin 1433.

Indictment. Acts 1881 (Spec. Sess.), ch. 36, sec. 99. Acts 1905; Burns 9-904; Baldwin 2126.

<sup>124</sup> Acts 1816-17, ch. 2, sec. 8; ch. 4, sec. 5. Acts 1817-18 (general), ch. 60, sec. 3; ch. 61, sec. 3. Rev. L. 1824, ch. 24, sec. 7; ch. 73, secs. 1, 2, 10, 22; ch. 74, secs. 2, 3, 9-11, 24. Acts 1881 (Spec. Sess.); Burns 2-802; Baldwin 83.

Summonses in criminal cases. Acts 1905, 1937; Burns, 1941 suppl., 9-1001; Baldwin, 1937 suppl., 2134. Acts 1905; Burns 9-1013; Baldwin 2138.

<sup>125</sup> Rev. L. 1824, ch. 73, sec. 3. Acts 1881 (Spec. Sess.), 1885, 1935; Burns, 1941 suppl., 2-807; Baldwin, 1935 suppl., 88.

<sup>126</sup> Acts 1941; Burns, 1941 suppl., 3-2902; Baldwin, 1941 suppl., 8405-2.

<sup>127</sup> Rev. L. 1831, ch. 6, sec. 1. Acts 1881 (Spec. Sess.); Burns 3-509; Baldwin 777.

<sup>128</sup> Acts 1881 (Spec. Sess.), 1897; Burns 3-522; Baldwin 791.

<sup>129</sup> Acts 1881 (Spec. Sess.); Burns 3-2703, 3-2704; Baldwin 1200, 1201.

<sup>130</sup> Acts 1927; Burns 3-1305; Baldwin 945.

habeas corpus writs,<sup>131</sup> warrants,<sup>132</sup> commitments,<sup>133</sup> executions,<sup>134</sup> witness subpoenas,<sup>135</sup> letters of guardianship,<sup>136</sup> letters testamentary, and letters of administration.<sup>137</sup> He takes depositions of witnesses;<sup>138</sup> approves and files judicial bonds,<sup>139</sup> including bonds of executors, administrators,<sup>140</sup> and guardians;<sup>141</sup> administers and files the official oaths of executors, administrators,<sup>142</sup> and guardians;<sup>143</sup> and performs the statutory and customary duties of clerk at trials.<sup>144</sup>

The clerk keeps dockets, order books, judgment records, final record books,<sup>145</sup> inheritance tax

<sup>131</sup> Acts 1881 (Spec. Sess.); Burns 3-1909; Baldwin 1044.

<sup>132</sup> Acts 1905, 1937; Burns, 1941 suppl., 9-1001; Baldwin, 1937 suppl., 2134. Acts 1905; Burns 9-1003, 9-3237; Baldwin 2136, 2347.

<sup>133</sup> Acts 1905, 1939; Burns, 1941 suppl., 9-725; Baldwin, 1939 suppl., 2094. Acts 1905, 1927; Burns 9-2228; Baldwin 2335.

<sup>134</sup> Acts 1816-17, ch. 4, sec. 36; ch. 5, sec. 22. Acts 1817-18 (general), ch. 3, sec. 63; ch. 66, sec. 1. Rev. L. 1824, ch. 10, sec. 1; ch. 74, sec. 55. Acts 1881 (Spec. Sess.); Burns 2-3301 to 2-3314; Baldwin 523, 526, 525, 527, 521, 522, 531, 532, 427, 528 to 530, 535, 524. Acts 1905; Burns 9-2226; Baldwin 2332.

<sup>135</sup> Acts 1816-17, ch. 4, sec. 12. Rev. L. 1824, ch. 74, sec. 16. Acts 1881 (Spec. Sess.); Burns 2-1701; Baldwin 289.

<sup>136</sup> 2 Rev. Stat. 1852; Burns 8-101; Baldwin 3418. State ex rel. Cecil v. Christian, 13 Ind. App. 308, 41 N. E. 603 (1895).

<sup>137</sup> Acts 1817-18 (general), ch. 13, secs. 1, 2. Rev. L. 1824, ch. 79, sec. 4. Acts 1881 (Spec. Sess.), 1901; Burns 6-201, 6-301; Baldwin 3025, 3050. McCool v. Old National Bank in Evansville, 214 Ind. 679, 17 N. E. (2d) 820 (1938).

<sup>138</sup> Acts 1881 (Spec. Sess.); Burns 2-1501; Baldwin 211.

<sup>139</sup> Acts 1816-17, ch. 4, sec. 36; ch. 5, sec. 18. Acts 1817-18 (general), ch. 13, sec. 19. Rev. L. 1824, ch. 5, sec. 24; ch. 74, sec. 13; ch. 79, sec. 2. Rev. L. 1831, ch. 6, secs. 1, 26. Acts 1881 (Spec. Sess.); Burns 2-3209, 2-3402, 3-303, 3-508, 3-519, 6-501, 6-1506, 6-2001; Baldwin 484, 538, 726, 776, 788, 3048, 3229, 3277. 2 Rev. Stat. 1852; Burns 7-502; Baldwin 3396. 2 Rev. Stat. 1852, Acts 1857, 1881 (Spec. Sess.); Burns 8-104; Baldwin 3421.

Releasing cost bond. Op. Atty. Gen. 1939, p. 9.

<sup>140</sup> Acts 1881 (Spec. Sess.), 1939; Burns, 1941 suppl., 6-501, 6-1128; Baldwin, 1939 suppl., 3048, 3169. Acts 1881 (Spec. Sess.); Burns 6-502, 6-804; Baldwin 3049, 3085.

<sup>141</sup> 2 Rev. Stat. 1852, Acts 1857, 1881 (Spec. Sess.); Burns 8-104; Baldwin 3421. 2 Rev. Stat. 1852, Acts 1895; Burns 8-204; Baldwin 3461. Acts 1867; Burns 8-402; Baldwin 3477.

<sup>142</sup> Acts 1881 (Spec. Sess.), 1939; Burns, 1941 suppl., 6-501; Baldwin, 1939 suppl., 3048.

<sup>143</sup> 2 Rev. Stat. 1852, Acts 1857, 1881 (Spec. Sess.); Burns 8-104; Baldwin 3421. 2 Rev. Stat. 1852, Acts 1895; Burns 8-204; Baldwin 3461. Acts 1867; Burns 8-402; Baldwin 3477.

<sup>144</sup> Acts 1816-17, ch. 3, sec. 3. Rev. L. 1824, ch. 10, sec. 1. Rev. L. 1831, ch. 15, sec.

1. 2 Rev. Stat. 1852; Burns 49-2706; Baldwin 1433.

<sup>145</sup> Acts 1816-17, ch. 2, sec. 12; ch. 4, secs. 1, 11, 12, 28, 32. Acts 1817-18 (general), ch. 3, sec. 11. Rev. L. 1824, ch. 73, sec. 15; ch. 74, secs. 15, 33, 55. Rev. Stat. 1843, ch. 38, secs. 48, 51; ch. 40, secs. 189, 367, 487. 2 Rev. Stat. 1852, ch. 1, sec. 358, p. 119. Acts 1881 (Spec. Sess.), 1929; Burns 2-1103, 2-2520, 2-3314; Baldwin 179, 392, 524. 2 Rev. Stat. 1852, Acts 1885 (Spec. Sess.), 1933;



records.<sup>146</sup> receivership records,<sup>147</sup> a "birth certificate record" (an index to judgments in birth registration proceedings),<sup>148</sup> guardianship records,<sup>149</sup> records concerning the administration of decedents' estates,<sup>150</sup> and records of redemptions from judicial sales.<sup>151</sup> He files and records orders, judgments,<sup>152</sup> indictments,<sup>153</sup> recognizances,<sup>154</sup> notices of lis pendens,<sup>155</sup> probated wills,<sup>156</sup> inventories and accounts of trustees,<sup>157</sup> sheriff's certificates of sale of real estate,<sup>158</sup> and warrants issued by the State Department of Treasury for the collection of gross income taxes.<sup>159</sup>

The clerk makes arrangements for the admission of feeble-minded persons to the Fort Wayne State School or the Muscatuck State School, after the judge has entered an order of commitment thereto;<sup>160</sup> files coroner's inquest papers

Burns 4-324; Baldwin 1413. 2 Rev. Stat. 1852; Burns 49-2706; Baldwin 1433.

Docketing appeals. Acts 1881 (Spec. Sess.); Burns 2-3226; Baldwin 500.

<sup>146</sup> Acts 1913, ch. 47, secs. 17, 18. Acts 1931, 1933, 1937; Burns, 1941 suppl., 6-2407;

Baldwin, 1937 suppl., 15945.

<sup>147</sup> Acts 1911; Burns 3-2607; Baldwin 1147.

<sup>148</sup> Acts 1941; Burns, 1941 suppl., 3-2906; Baldwin, 1941 suppl., 8405-6.

<sup>149</sup> Acts 1846-47 (general), ch. 54, sec. 1. Acts 1881 (Spec. Sess.), 1893; Burns 6-2205,

6-2206; Baldwin 3014, 3238. Acts 1889; Burns 8-137; Baldwin 3424. <sup>1</sup>

<sup>150</sup> Acts 1817-18 (general), ch. 13, secs. 1, 2. Rev. L. 1824, ch. 79, secs. 8, 38. Acts 1891, ch.

194, sec. 114. Acts 1909, ch. 10, sec. 1. Acts 1881 (Spec. Sess.), 1883; Burns 6-2205, 6-2206; Baldwin 3014, 3238

<sup>151</sup> Acts 1879, ch. 79, sec. 7. Acts 1881 (Spec. Sess.); Burns 2-4001; Baldwin 624.

<sup>152</sup> Acts 1816-17, ch. 5, sec. 22. Acts 1817-18 (general), ch. 3, sec. 63; ch. 66, sec. 5.

Rev. L. 1824, ch. 40, sec. 13. Acts 1825, ch. 8, sec. 1. Rev. Stat. 1843, ch. 38, sec. 40. Acts

1893; Burns 2-822; Baldwin 103. Acts 1881 (Spec. Sess.), 1929; Burns 2-2520, 2-2706; Baldwin 352,

421. Acts 1915; Burns 3-1410; Baldwin 969. 2 Rev. Stat. 1852; Burns 49-2706; Baldwin 1433.

<sup>153</sup> 2 Rev. Stat. 1852, ch. 1, sec. 68, p. 369, (repealed by Acts 1881 (Spec. Sess.), ch. 36, sec. 323). Acts 1881 (Spec. Sess.), ch. 36, sec. 99. Acts 1905; Burns 9-904; Baldwin 2126. Neal v.

State, 214 Ind. 323, 14 N. E. (2d) 590, 15 N. E. (2d) 950 (1938).

<sup>154</sup> Acts 1881 (Spec. Sess.); Burns 2-3402; Baldwin 538. Acts 1905, 1927, 1933; Burns 9-723, 9-1029, 9-1042; Baldwin 2092, 2163, 2175. 2 Rev. Stat. 1852; Burns 49-2907; Baldwin 5441.

<sup>155</sup> Acts 1877 (Spec. Sess.), ch. 24, secs. 1, 4. Acts 1881 (Spec. Sess.); Burns 2-813 to 2-821; Baldwin 94 to 95, 101, 102, 97 to 100. Acts 1893; Burns 2-822; Baldwin 103. Acts 1905; Burns 56-505; Baldwin 14708-1. Pfeiffer Hardware Co. v. Auburn State Bank, 104 Ind. App. 472, 8 N. E. (2d) 398 (1937).

<sup>156</sup> Domestic probate. Acts 1817-18 (general), ch. 13, sec. 2. Acts 1881 (Spec. Sess.) 1883; Burns 6-2205; Baldwin 3014. 2 Rev. Stat. 1852; Burns 7-411; Baldwin 3385.

Foreign probate. 2 Rev. Stat. 1852; Burns 7-415 to 7-417; Baldwin 3389 to 3391.

<sup>157</sup> Acts 1937; Burns, 1941 suppl., 6-2514; Baldwin, 1937 suppl., 3221-14.

<sup>158</sup> These certificates and assignments thereof are recorded in the lis pendens record.

Acts 1881 (Spec. Sess.); Burns 2-3909; Baldwin 622.

<sup>159</sup> These warrants are recorded in the judgment record. Acts 1933, 1937; Burns, 1941 suppl., 64-2613(a); Baldwin 1937 suppl., 1589(c)(a). Op. Atty. Gen. 1938, p. 303.

<sup>160</sup> Acts 1939; Burns, 1941 suppl., 22-1742; Baldwin, 1939 suppl., 4227-2.



(including recognizances, written evidence, verdict, and report);<sup>161</sup> receives money deposited in court pending the decision of the court;<sup>162</sup> and receives payments on judgments of record in his office.<sup>163</sup>

The clerk draws up each day's proceedings at full length in the proper order book (which is signed by the judge); enters in a final record book a complete record of causes finally determined;<sup>164</sup> furnishes certified copies of papers and records on file in his office;<sup>165</sup> and prepares and certifies transcripts of proceedings for change of venue from the county<sup>166</sup> or for appeal to a higher court.<sup>167</sup> He prepares budget estimates for the circuit court;<sup>168</sup> makes reports to the county auditor and Auditor of State concerning the fines imposed by the court and the collections thereof; makes fee reports to the county auditor; and pays fines and fees to the county treasurer.<sup>169</sup>

The clerk keeps the jury box containing names selected by the jury commissioners (the key thereto being kept by a jury commissioner), draws therefrom names of persons to serve on the grand jury and petit jury, records their names

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<sup>161</sup> 2 Rev. Stat. 1852, Acts 1879 (Spec. Sess.); Burns 49-2907 to 49-2909; Baldwin 5441 to 5443.

<sup>162</sup> Acts 1881 (Spec. Sess.); Burns 2-4711; Baldwin 1214. Acts 1905; Burns 2-4712, 9-1026;

Baldwin 1213, 2160.

<sup>163</sup> Acts 1875; Burns 49-2719; Baldwin 1438.

<sup>164</sup> Acts 1816-17, ch. 3, sec. 3. Acts 1817-18 (general), ch. 3, secs. 62, 63; ch. 66, sec. 5. Rev. L. 1824, ch. 10, sec. 1; ch. 74, sec. 54. Rev. Stat. 1843, ch. 38, secs. 40, 52. 2 Rev. Stat. 1852, Acts 1885, 1933; Burns 4-324; Baldwin 1413. 2 Rev. Stat. 1852; Burns 49-2706; Baldwin 1433.

<sup>165</sup> Acts 1817-18 (general), ch. 13, sec. 18. Acts 1941, ch. 24, sec. 5. 2 Rev. Stat. 1852; Burns 7-413, 49-2707; Baldwin 3387, 1434. 1 Rev. Stat. 1852; Burns 44-303; Baldwin 5634. Fidelity Bldg. & Sav. Union v. Byrd, 154 Ind. 47, 55 N. E. 867 (1899); Midland Ry. Co. v. State ex rel. Harrison, 11 Ind. App. 433, 38 N. E. 57 (1894).

<sup>166</sup> Acts 1818-19, ch. 3, sec. 4. Acts 1881 (Spec. Sess.); Burns 2-1406; Baldwin 191. Acts 1905; Burns 9-1305; Baldwin 2226. Sun Publishing Co. v. Bonifas, 106 Ind. App. 607, 19 N. E. (2d) 879 (1939).

Fees on change of venue, and record thereof. Acts 1913, ch. 256, sec. 2. Acts 1927; Burns 2-1421; Baldwin 203. Op. Atty. Gen. 1934, p. 128.

<sup>167</sup> Acts 1903, 1915; Burns 2-3104; Baldwin 462. Acts 1881 (Spec. Sess.); Burns 2-3105; Baldwin 455. Acts 1903, 1933; Burns 2-3112; Baldwin 466.

<sup>168</sup> Acts 1899; Burns 26-516; Baldwin 5380.

<sup>169</sup> Acts 1895, 1903, 1913; Burns 49-1402; Baldwin 7577. 2 Rev. Stat. 1852, Acts 1891; Burns 49-2710; Baldwin 1437. Acts 1909; Burns 60-214; Baldwin 13865.

in the order book, and issues a venire to require such persons to appear in court.<sup>170</sup>

The clerk files naturalization declarations and certificates under the Federal laws; keeps a record of naturalization proceedings; and makes reports thereof to the United States Immigration and Naturalization Service.<sup>171</sup>

Formerly the clerk issued certificates showing discharge of apprentices by the court;<sup>172</sup> recorded prison bounds;<sup>173</sup> and made reports to the board of commissioners concerning fines imposed by the circuit court and collections thereof.<sup>174</sup>

The State Board of Accounts has prescribed forms for the following records: Entry and issue docket and fee book; estate entry claim and allowance docket and feebook; guardianship docket and fee book; support docket; index and record of receiverships; and judgment docket.<sup>175</sup>

#### CIVIL CAUSES

(See also entry 166, 169)

#### FILING OF ACTIONS

109. ENTRY DOCKET, ISSUE DOCKET AND FEE BOOK, 1914-  
23 vols. (1-23).

Record of filing of actions, issues, and fees and costs assessed

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<sup>170</sup> Acts 1817-18 (general), ch. 48, secs. 2, 3. Rev. L. 1824, ch. 56, secs. 1-3. Rev. L. 1831, ch. 53, secs. 1, 2. Acts 1881 (Spec. Sess.), 1939; Burns, 1941 suppl., 4-3304; Baldwin, 1939 suppl., 1267. Acts 1881 (Spec. Sess.), 1895, 1913; Burns 4-3305, 4-3306; Baldwin 1272, 1270.

Failure to empty the jury box at beginning of year held not ground for reversal of manslaughter conviction. Crickmore v. State, 213 Ind. 586, 12 N. E. (2d) 266 (1938).

Objection to irregularities in the selection, impaneling, or swearing of grand jury should be raised by plea in abatement. Johnson v. State, 213 Ind. 659, 14 N. E. (2d) 96 (1938).

<sup>171</sup> U. S. C., title 8, secs. 357, 400 (laws of 1906, 1911, 1913). U. S. Executive Order (June 10, 1933) 6166, sec. 14. Acts 1933, 1937; Burns, 1941 suppl., 49-1007; Baldwin, 1937 suppl., 7537.

<sup>172</sup> Acts 1817-18 (general), ch. 51, sec. 2. Rev. L. 1824, ch. 3, sec. 2. Rev. L. 1831, ch. 4, sec. 2.

<sup>173</sup> Acts 1817-18 (general), ch. 32, sec. 1. Rev. L. 1824, ch. 77, sec. 1. Rev. L. 1831, ch. 75, sec. 1.

<sup>174</sup> Acts 1821-22, ch. 79, sec. 3. Rev. L. 1824, ch. 22, sec. 9. Acts 1827-28, ch. 88, sec. 2. Rev. L. 1831, ch. 54, sec. 14; ch. 90, sec. 4. Rev. Stat. 1843, ch. 13, secs. 80-83. 1 Rev. Stat. 1852, ch. 9.

<sup>175</sup> Acts 1909; Burns 60-202; Baldwin 13855. Information obtained from E. P. Brennan, State Examiner, on May 13, 1939, by W. Davis Hamilton.

in civil causes, showing nature and number of cause; dates of filing, sheriff's return, proceedings, and payment of fees and costs; names of plaintiff, defendant, witnesses, attorneys, payer, and payee; amount and nature of fees and costs; and disposition of cause. This is a combination of three records formerly kept separately: Entry docket, entry 110; issue docket, entry 111; and fee book, July 9, 1917-, entry 130. Arr. numer. by cause no. Indexed alph. by name of plaintiff. Hdw. 300 pp. 18 x 13 x 3. Clk. vt.

110. ENTRY DOCKET, 1853-1913. 97 vols. (1-2, 2, 3; 94 vols. dated). 1914- in Entry Docket, Issue Docket and Fee Book, entry 109.

Record of filing of actions, showing dates of filing, issuing process, and judgment; names of defendant, plaintiff, and attorneys; and number and nature of cause. Arr. numer. by cause no. Indexed alph. by name of plaintiff. Hdw. 400 pp. 17 x 12 x 2. Attic strg. room.

111. ISSUE DOCKET, 1853-1913. 8 vols. (A, 1-7). 1914- in Entry Docket, Issue Docket and Fee Book, entry 109.

Record of causes set for trial, showing dates of filing, issuance of writ, and sheriff's return; nature and number of cause; and names of plaintiff, defendant, and attorneys. Arr. numer. by cause no. Indexed alph. by name of plaintiff. Hdw. 600 pp. 18 x 13 x 3. Clk. vt.

112. COURT DOCUMENTS [Civil], 1837-. 155 f. b. (numbered irregularly).

Original documents filed in civil causes consisting of complaints, denials, affidavits, indictments, warrants, cross complaints, motions, demurrers, writs, summonses, subpoenas, appeals, verdicts, executions, fee bills, and court orders, showing nature and number of cause; date of filing; names of affiant, plaintiff, defendant, witnesses, attorneys, and sureties; and action taken. Arr. numer. by cause no. No index. Hdw. 10 x 13 x 5. Clk. vt.

#### CORONERS' INQUESTS

113. CORONERS' INQUESTS, Dec. 5, 1898-July 28, 1924. 2 vols. (1 vol. unlabeled; 1). Title varies: Coroners Record, Dec. 5, 1898-Aug. 28, 1906, 1 vol. July 29, 1924- in Coroners' Inquests, entry 114.

Record of coroners' inquests to establish causes of sudden,

accidental, and violent deaths, showing dates of death, inquest, verdict, and filing; name and description of deceased; names and testimonies of witnesses; cause of death; list of articles found on body; and coroner's verdict. Arr. chron. by date of inquest. No index, Dec. 5, 1898-Aug. 28, 1906; indexed alph. by name of deceased, Aug. 29, 1906-July 28, 1924. Hdw. 1 vol. 205 pp. 12 x 8 x 1, Dec. 5, 1898-Aug. 28, 1906, attic strg. room; 1 vol. 358 pp. 18 x 13 x 3, Aug. 29, 1906-July 28, 1924, clk. vt.

114. CORONERS' INQUESTS, Sept. 9, 1869-. 3 f. b. Coroners' reports on inquests held to establish causes of violent, accidental, and sudden deaths, showing information as in entry 113. Also contains: Coroners' inquests, July 29, 1924-, entry 113. Arr. chron. by date of filing. No index. Hdw. and typed. 10 x 13 x 5. Clk. vt.

115. CORONER'S INQUESTS, 1938-. 1 f. b. Card record of inquests held to establish causes in sudden, violent, and accidental deaths, showing information as in entry 113. Arr. chron. by date of filing. No index. Hdw. 8 x 5. Coroner's off., 816 Main St. Rochester, Ind.

#### MINUTES

116. DOCKET, 1836-59. 1 vol. (A) Docket of civil and criminal causes, showing term of court, cause number; dates of filing and hearing; names of plaintiff, defendant, and attorneys; nature of action; and proceedings of court. Arr. chron. by date of hearing. No index. Hdw. 200 pp. 13 x 9 x 2. Display case, corridor, 1st fl.

117. BENCH DOCKET, Sept. 1845-Aug. 21, 1914, 146 vols. (dated).

Record of actions and proceedings in civil, criminal, estate, and guardianship causes, showing dates of filing and actions; nature and number of cause; names of principals; nature of action; court proceedings and orders; and disposition of cause. Also contains: Court civil docket, entry 118. Arr. numer. by cause no. No index. Hdw. 300 pp. 18 x 12 x 2. Attic strg. room.

118. COURT DOCKET, CIVIL, 1915-. 10 vols. Sept. 1845-Aug. 21, 1914 in Bench Docket, entry 117.

Record of proceedings and actions in civil causes, showing date of filing and action; nature and number of cause; names

of plaintiff, defendant, attorneys, and witnesses; court proceedings; and disposition of cause. Arr. numer. by cause no. No index. Hdw. and typed. 500 pp. 12 x 13 x 15. Clk. vt.

119. DITCH CASES, Aug. 2, 1881-Apr. 1, 1924. 3 f. b. Transcripts of actions and proceedings in ditch and drain causes, showing cause number; dates of petition, filing, remonstrance, viewers report, and action taken; names of petitioners, remonstrators, viewers, contractor, and ditch; proceedings; contractor's estimate of costs; and action taken. Arr. chron. by date of action taken. Indexed alph. by name of ditch. Hdw. 10 x 13 x 5. Clk. vt.

#### ORDERS

120. ORDER BOOK, 1836-. 61 vols. (A-Z, 1-35). Record of verdicts, judgments, and orders of court in civil and criminal causes, showing dates of court term, filing, action taken, verdict, and court order; nature and number of cause; nature of verdict or judgment; names of plaintiff, defendant, and judge; and court order. Arr. chron. by date action taken. Indexed alph. by names of plaintiff and defendant. Hdw. 600 pp. 18 x 13 x 3. Clk. vt.

#### JUDGMENTS

121. JUDGMENT DOCKET, Oct. 28, 1836-. 15 vols. (A-I, 1, 2, J, K, O, P). Record of judgments rendered in civil, criminal, and probate causes, showing dates of filing, judgment, assignment, and satisfaction; number and nature of cause; names of plaintiff, defendant, judgment debtor, and attorneys; and amounts of judgment, fees, and costs. Arr. alph. by name of defendant. No index, Oct. 28, 1836-Dec. 31, 1884, 1936-; for index 1885-1935, see entry 122. Hdw. 300 pp. 18 x 13 x 3. 11 vols., Oct. 28, 1836-Nov. 17, 1901, attic strg. room; 4 vols., Nov. 18, 1901-, clk. vt.

122. GENERAL INDEX OF JUDGMENTS, 1885-1935. 1 vol. Index to judgment docket, entry 121, showing dates of judgment and satisfaction, amount of judgment, names of judgment debtor and judgment creditor, and volume and page reference to recording. Arr. alph. by name of judgment debtor. No index. Hdw. 400 pp. 18 x 13 x 3. Clk. off.



## 123. TRANSCRIPTS OF JUDGMENTS, 1871-. 6 f. b.

Transcripts of judgments rendered in civil, criminal, and probate causes, showing dates of filing, assignment, and satisfaction; date and amount of judgment; number and nature of cause; names of plaintiff, defendant, and judgment debtor; and amounts of fees and costs. Arr. alph. by name of defendant. No index. Hdw. and typed. 10 x 13 x 15. Clk. vt.

## 124. UNRECORDED QUIET TITLE DECREES, 1927-. 1 f. b.

Transcripts of judgments rendered in court actions involving title to real property, showing dates of action and judgment; cause number; names of plaintiff, defendant, and attorneys; location and description of property; and court order. Arr. chron. by date of action. Indexed alph. by names of plaintiff and defendant. Hdw. 10½ x 13 x 4. Clk. vt.

## EXECUTIONS

## 125. EXECUTION DOCKET, 1854-. 7 vols. (A-G).

Record of writs issued for execution of judgments, showing cause number; dates of judgment, writ, and sheriff's return; names of plaintiff and defendant; location and description of property; and amounts of judgments, interest, and costs. Arr. numer. by cause no. Indexed alph. by name of defendant. Hdw. 300 pp. 18 x 13 x 3. Clk. vt.

## 126. LIS PENDENS RECORD, COMPLAINTS, Oct. 15, 1877-. 1 vol. (1).

Record of notices of complaints filed against owners of real estate that may be subject to levy for satisfaction of judgment, showing date of filing; nature and number of cause; names of plaintiff, defendant, and attorneys; and location and description of property. Arr. chron. by date of filing. No index. Hdw. 536 pp. 18 x 13 x 3. Clk. vt.

## 127. LIS PENDENS RECORD, SHERIFFS' NOTICE, Oct. 3, 1881-. 1 vol. (1).

Record of sheriffs' notices of levies and attachments on property to satisfy judgments, showing cause number; dates of filing and attachment or levy; names of plaintiff, defendant, and attorneys; location and description of property; and date and nature of satisfaction. Arr. chron. by date of filing. Indexed alph. by name of defendant. Hdw. 536 pp. 18 x 13 x 3. Clk. vt.

## 128. LIS PENDENS NOTICES, 1916-. 1 f. b. (122).

Copies of sheriffs' notices of attachment and levies on property to satisfy judgment, showing information as in entry 127. Arr. chron. by date of filing. No index. Hdw. 10 x 13 x 5. Clk. vt.

129. REDEMPTION RECORD, Aug. 8, 1897-Nov. 17, 1923.  
1 vol. (1).

Record of certificates of redemption of real property sold to satisfy judgments, showing cause number; dates of judgment, sale, redemption, and recording; names of plaintiff, defendant, purchaser, and redeemer; amounts of judgment, sale, and redemption; and location and description of property. Arr. chron. by date of redemption. Indexed alph. by name of plaintiff. Hdw. 432 pp. 18 x 13 x 3. Clk. vt.

#### FEE AND CASH RECORD

130. FEE BOOK [Civil], Oct. 28, 1836-July 8, 1917.  
25 vols. 2 vols. unlabeled; A, B, B, B, C-Q, 1, 1-2, 3, 4). July 9, 1917- in Entry Docket, Issue Docket and Fee Book, entry 109.

Record of filing of actions and fees and costs assessed, showing cause number; names of plaintiff, defendant, payer, and payee; itemized statement of fees and costs; date of action; and dates and amounts of collections. Arr. chron. by date of action. Indexed alph. by name of plaintiff. Hdw. 300 pp. 16 x 12 x 2. Attic strg. room.

131. SUPPORT DOCKET, 1909-. 2 vols. (1, 2).

Record of alimony and support payments received and disbursed by clerk, showing cause number, dates and amounts of receipt and disbursement, and names of payer and payee. Arr. numer. by cause no. Indexed alph. by name of payer. Hdw. 590 pp. 18 x 13 x 3. Clk. off.

#### NATURALIZATION

132. DECLARATION OF INTENTION. Oct. 11, 1859-. 6 vols.  
Title varies: Naturalization Record, Oct. 11, 1859-March 11, 1905, 2 vols.

Record of declarations of intention and petitions by aliens to become citizens of the United States, showing dates of declaration, petition, and filing; name, address, occupation, sex, race, nationality, date and place of birth, marital status, and physical description of alien; names of native country, ports of emigration and entry, and sailing vessel; last foreign address; and dates of emigration and arrival. Arr. chron. by date of filing. Indexed alph. by name of alien. Hdw. 2 vols. 200 pp. 15½ x 11 x 2, Oct. 11, 1859-March 11, 1905, attic strg room; 4 vols. 100 pp. 14 x 9 x 1, March 12, 1905-, clk. vt.

## 133. NATURALIZATION, 1931-. 1 f. b.

Original naturalization documents showing information as in entry 132. Arr. chron. by date of filing. Indexed alph. by name of alien. Hdw. 10 x 13 x 5. Clk. vt.

## CRIMINAL CAUSES

(See also entries, 116, 117, 120, 121, 123, 171)

## FILING OF ACTIONS

## 134. CRIMINAL [Causes], 1880-. 9 f. b. (labeling varies).

Original documents filed in criminal causes, consisting of affidavits, indictments, warrants, subpoenas, motions, denials, verdicts, court orders, commitments, recognizance bonds, pleas, and appeals, showing date, nature, and number of cause; nature of document; names of defendant, attorneys, witnesses, and sureties; and date and nature of action taken. Arr. numer. by cause no. No index. Hdw. 10 x 13 x 5. Clk. vt.

## INDICTMENTS

## 135. RECORD OF INDICTMENTS [Grand Jury Indictments', March 1, 1854-. 2 vols. (1 vol. labeled by contained subjects; 2).

Record of grand jury indictments, showing dates of indictment, filing, and recording; date and nature of alleged offense, number and nature of indictment; and names of defendant and witnesses. Arr. chron. by date of indictment. Indexed alph. by name of defendant. Vols. aver. 350 pp. 14 x 9 x 1½. 1 vol., March 1, 1854-Feb. 12, 1916, attic strg. room; 1 vol., Feb. 13, 1916-, clk. vt.

## RECOGNIZANCE BONDS

## 136. RECOGNIZANCE BOND RECORD, Jan. 29, 1886-March 27, 1918. 1 vol. (1). March 28, 1918- in Miscellaneous Bond Record, entry 43.

Record of bonds posted by defendants to insure their appearance in court, showing dates of bond, filing, and approval; names of defendant and sureties; cause number; nature of charge; and amount and conditions of bond. Arr. numer. by cause no. Indexed alph. by name of defendant. Hdw. 478 pp. 18 x 13 x 2. Attic strg. room.

## MISCELLANEOUS RECORDS

## 137. DISPOSED OF DEPOSITIONS, July 12, 1859-1916. 7 f. b.

Depositions obtained from witnesses unable to appear in court

showing dates of deposition and filing; cause number; and names of plaintiff, defendant, and witness. Arr. chron. by date of deposition. No index. Hdw. 10 x 13 x 5. Clk. vt.

138. RECORD OF FIRE ARMS PERMITS, Feb. 19, 1926-. 3 vols. Duplicates of permits issued by judge of circuit court, showing date and number of permit; name, address, date and place of birth, and physical description of recipient; description of firearm; and reason for issuance. Arr. numer. by permit no. No index. Hdw. 150 pp. 12 x 10 x 1. Clk. vt.

#### PROBATE CAUSES

(See also entries, 121, 123)

#### FILING OF ACTIONS

139. ESTATE ENTRY, CLAIM, AND ALLOWANCE DOCKET, Sept. 25, 1878-. 11 vols. (1-3, 1-8). Title varies: Gen. Entry Claim and Allowance Docket, Sept. 25, 1878-May 16, 1915, 3 vols.

Record of filing of actions, claims, and allowances and fees assessed in estate causes, showing cause number; dates of decedents death and letter of administration; names of decedent, administrator or executor, sureties, and claimants; amounts of administrator's or executor's bond, inventory, claim, allowance, and fees; and date of payment. Also contains: Appearance docket, Sept. 15, 1881-, entry 146; docket of allowance, Dec. 12, 1883-, entry 140. Arr. numer. by cause no. Indexed alph. by name of decedent. Hdw. 600 pp. 18 x 13 x 3. 3 vols., Sept. 25, 1878-May 16, 1915, attic strg. room; 8 vols., May 17, 1915-, clk. off.

140. DOCKET OF ALLOWANCE, April 1, 1863-Dec. 11, 1883. 1 vol. (1). Dec. 12, 1883- in Estate Entry, Claim, and Allowance Docket, entry 139.

Record of allowances made, showing dates of allowance and filing; cause number; names of administrator, estate, and recipient; receipt of satisfaction; and amount of allowance. Arr. chron. by date of allowance. Indexed alph. by name of recipient. Hdw. 600 pp. 17½ x 12 x 2. Attic strg. room.

141. PROBATE COURT, 1849-. 249 f. b. (numbered irregularly).

Original documents of all actions and proceedings in settlement of estate causes involving titles to real estate, showing cause number; names of estate, heirs, and administrator or executor; dates of death, court action, and settlement; location and description of property; amounts of bequests, inventory, and sale of personal property; and disposition of cause. Arr. chron. by date action taken. For index, see entry, 161. Hdw. 10 x 13 x 5. Clk. vt.



142. GUARDIANSHIP DOCKET, Aug. 13, 1851-. 5 vols. (1-4; 1 vol. unlabeled). Title varies: Guardian's Docket Aug. 13, 1851-May 20, 1911, 4 vols.

Record of filing of actions in guardianship causes, dates of filing and appointment of guardian; cause number; names of guardianship, wards, guardian, and sureties; and amount of guardian's bond. Arr. numer. by cause no. Indexed alph. by name of ward. Hdw. 200 pp. 18 x 13 x 3. Clk. vt.

143. GUARDIANSHIP FEE BOOK, 1879-. 6 vols. (1, 2, C, D, E, F).

Record of filing of actions and fees assessed in guardianship causes, showing cause number; dates of filing and appointment of guardian; names of ward, guardian, and sureties; amount of guardian's bond; and nature and amount of fees. Arr. numer. by cause no. Indexed alph. by name of ward. Hdw. 532 pp. 18 x 12 x 3. Clk. off.

144. ESTATES PENDING, 1933-. 20 f. b. and 155 bdl.

Original documents filed in court action in estate causes consisting of applications and letters of appointment of administrators and executors, bonds of administrators and executors, appraisals, inventories, inheritance tax, proofs of publication, claims, and expenses paid, showing cause number; date of filing; date and nature of document; names of estate, administrator or executor, heirs, decedent, and sureties; amounts of administrator's or executor's bonds, claims, and receipts; and final settlement of estate. Arr. alph. by name of estate. Indexed alph. by name of heirs. Hdw. and typed. 10 x 14 x 4½. Clk. vt.

145. GUARDIANSHIP PENDING, 1909-. 27 f. b. and 87 bdl.

(labeled alph. by contained names of wards).

Original documents filed in guardianship causes pending, showing cause number; dates of document, filing, and appointment of guardian; names of guardianship, guardian, sureties, and ward; and amount of bond. Arr. alph. by name of ward. Indexed alph. by name of guardianship. Hdw. and typed. 10 x 14 x 4½. Clk. vt.

146. APPEARANCE DOCKET, Feb. 5, 1875-Sept. 14, 1881.

1 vol. (2). Sept. 15, 1881- in Estate Entry, Claim, and Allowance Docket, entry 139.

Record of filing of claims against estates, showing dates of filing and settlement; names of administrator or executor, estate, and claimant; amounts of claim, debit, credit, and balance; and proceedings. Arr. chron. by date of filing. Indexed alph. by name of claimant. Hdw. 580 pp. 18 x 13 x 2. Attic strg. room.



## INSANITY

147. INSANE RECORD, July 3, 1848-. 8 vols. (1 vol. unlabeled; 1-4, 6, 5, 6).

Record of inquests and proceedings in insanity causes, showing cause number; dates of petition, inquest, court order, and commitment; names of patient, physicians, institution, and witnesses; statements of examining physicians; age, sex, mental condition, and family history of patient; and sheriff's return. Arr. chron. by date of inquest. Indexed alph. by name of patient. Hdw. 1 vol. 150 pp. 12½ x 8 x 1; 7 vols. 600 pp. 18½ x 12½ x 3. 6 vols., July 3, 1848-Aug. 24, 1918, attic strg. room; 2 vols., Aug. 25, 1918-, clk. vt.

148. INSANITY, Dec. 10, 1863-. 6 f. b. (A, B, C; 3 f. b. unlabeled).

Original documents filed in causes of alleged insanity, consisting of record of inquests, warrants of arrest, proceedings, commitments, and receipts of admission, showing information as in entry 147. Arr. numer. by cause no. No index. Hdw. 10 x 13 x 5. Clk. vt.

## WILLS

149. WILLS, 1838-. 8 vols.

Transcripts of wills filed for probate, showing date of will and filing; cause number; names of testator, executor, witnesses, and heirs or beneficiaries; amount, nature, and conditions of bequest. Arr. chron. by date of filing. Indexed alph. by name of testator. Hdw. 590 pp. 18 x 13 x 3. Clk. vt.

150. WILLS, 1893-. 6 f. b.

Original wills filed for probate, showing information as in entry 149. Arr. numer. by cause no. No index. Hdw. 10 x 13 x 5. Clk. vt.

## ADMINISTRATORS', EXECUTORS', AND GUARDIANS' BONDS

151. GUARDIANS RECORD OF BONDS AND LETTERS, April 4, 1853-. 5 vols. (A, 1-4).

Record of guardians' bonds, oaths, and letters, showing dates of filing, bond, oaths, and letters; names of guardianship, guardian, and sureties; and amount and conditions of bond. Arr. chron. by date of bond. Indexed alph. by name of guardian. Hdw. 450 pp. 18 x 13 x 3. Clk. vt.

152. ADMINISTRATORS', GUARDIANS' AND EXECUTORS' BONDS,  
1857-. 7 f. b.

Original bonds posted by administrators, executors, and guardians, showing date, amount, and conditions of bond; names of estate and administrator or executor, sureties, and guardianship and guardian. Arr. chron. by date of bond. No index. Hdw. and typed. 10 x 13 x 5. Clk. vt.

153. RECORD OF ADMINISTRATORS AND EXECUTORS BONDS, Jan.  
23, 1851-. 8 vols. (1-5, 1, 1, 1).

Transcripts of administrators' bonds showing date of filing; date, amount, and conditions of bond; and names of judge, estate, administrator, and sureties. Arr. chron. by date of bond. Indexed alph. by name of estate. Hdw. and typed. 450 pp. 18 x 13 x 3. Clk. vt.

154. RECORD OF ADMINISTRATORS', GUARDIANS' AND EXECUTORS'  
BONDS TO SELL REAL ESTATE, April 6, 1853-. 4 vols.  
(1 vol. unlabeled; 1-3).

Record of administrators', executors', and guardians' bonds to sell real estate, showing date, amount, and conditions of bond; cause number; names of sureties, estate, and administrator or executor or guardianship and guardian; location and description of property; affidavits of surety assets; and date of approval. Arr. chron. by date of bond. Indexed alph. by name of administrator or guardian Hdw. 450 pp. 18 x 13 x 3. Clk. vt.

INVENTORIES AND SALE BILLS

155. RECORD OF INVENTORY, Nov. 24, 1854-April 24, 1933.  
8 vols. (1-8).

Record of inventories of personal property in estate causes, showing dates of inventory and filing; cause number; names of deceased, appraiser, and debtors; dates and amounts of debts; amounts of principal, credits, and rate of interest; and itemized statement, appraised valuation and description of personal property. Arr. chron. by date of filing. Indexed alph. by name of deceased. 6 vols. (1-6) hdw.; 2 vols. (7, 8) typed. 600 pp. 18 x 12 x 2½. Attic strg. room.

156. ACCOUNT SALE OF PERSONAL PROPERTY, May 15, 1926-  
Feb. 22, 1935. 1 vol. (3).

Record of inventories of personal property sold by administrator of estates, showing cause number; names of estate, administrator, and purchaser; date of sale; itemized list of property sold; and amount of sales. Also contains: Sale bill record, May 15, 1926-Feb. 22, 1935, entry 157. Arr. chron. by date of sale. Indexed alph. by name of estate. Typed. 475 pp. 18 x 13 x 3. Clk. vt.

157. SALE BILL RECORD, July 12, 1856-April 25, 1925. 3 vols. (1,2; 1 vol. unlabeled). May 15, 1926-Feb. 22, 1935 in Account Sale of Personal Property, entry 156.

Record of sales of personal property in estate causes, showing date of sale; names of administrator, articles sold, and purchaser; cause number; amounts of sale; and initial cash payment or security. Arr. chron. by date of sale. Indexed alph. by name of estate. Hdw. 590 pp. 18 x 12 x 2. Attic strg. room.

#### MINUTES

158. ESTATE DOCKET, FULTON CIRCUIT COURT, Dec. 12, 1871-. 8 vols. (2-4; 5 vols. unlabeled). Title varies: Judge's Docket of Estates, Dec. 12, 1871-May 1, 1905, 3 vols.

Record of actions and proceedings in estate causes consisting of applications and letters of appointment of administrators or executors, administrators' or executors' bonds, inventories, inheritance tax, proof of publication, and claims, showing information as in entry 159. Arr. alph. by name of deceased. No index. Hdw. and typed. 3 vols. 580 pp. 18 x 13 x 2, Dec. 12 1871-May 1, 1905; 5 vols. 300 pp. 13 x 2 x 4, May 2, 1905-. Clk. vt.

159. BENCH DOCKET OF ESTATES, Nov. 10, 1863-July 14, 1887. 1 vol. (1).

Record of actions and proceedings in estate causes, showing dates of filing and action; cause number; names of deceased, administrator or executor, estate, and sureties; proceedings; and nature of action taken. Arr. alph. by name of deceased. Indexed alph. by name of estate. Hdw. 420 pp. 18 x 12 x 2. Attic strg. room.

#### ORDERS

160. ORDER BOOK, PROBATE, 1874-. 19 vols. (1-19).

Record of actions and proceedings in probate causes, showing number and nature of cause; dates of filing, court term, and action taken; names of estate or guardianship, deceased, administrator or executor or guardian, heirs, or wards, sureties, attorneys, and witnesses; and disposition of cause. Arr. chron. by date of action taken. Indexed alph. by name of deceased; also separate index, entry 161. Hdw. 1874-March 1921; typed April 1921-. 580 pp. 18 x 13 x 3. Clk. vt.

161. INHERITANCE AND TRANSFER TAX RECORD, Sept. 27, 1913-July 11, 1922. 1 vol.

Record of court orders determining value of estates and amount of tax, showing dates of appraisal, filing, inventory, and decedents death; names of heirs, estate, administrator or executor, and devisee or legatee; age, address, and relationship to decedent of heirs; location, description, and valuation of property; amount and estimated value of each legacy; amount and nature of exemptions; and rate and amount of tax. Arr. chron. by date of filing. No index. Hdw. 320 pp. 18 x 23 x 2. Attic strg. room.

#### COMPLETE RECORDS

162. COMPLETE RECORD PROBATE COURT, 1845-59. 4 vols.  
(A-D).

Complete transcripts of actions and proceedings in settlement of estate causes involving real estate, showing dates of filing and action taken, cause number, name of estate, location and description of property, amount of bequest, and disposition of cause. Arr. chron. by date of action taken. Indexed alph. by name of estate; also separate index, entry 164. Hdw. 580 pp. 18 x 13 x 3. Clk. vt.

163. COMPLETE RECORD OF ESTATES, Apr. 20, 1865-. 15 vols. (2-7; 9 vols. unlabeled).

Complete transcripts of actions and proceedings in estate causes consisting of applications and letters of appointment of administrators or executors, administrators' or executors' bonds, inventories, sale bills, inheritance schedules, proofs of publication, and claims, showing dates of filing and action; number and nature of cause; names of estate, heirs, claimant, attorneys, and administrator or executor; amounts of estate, inventory, claims, sale bills, and administrator's or executor's bond; location and description of property; and final settlement. Arr. numer. by cause no. Indexed alph. by name of estate; also separate index, entry 164. Hdw. 600 pp. 18 x 13 x 3. Clk. vt.

164. GENERAL INDEX TO ESTATES AND GUARDIANSHIPS, 1845-. 2 vols.

Index to complete probate record, entry 160; probate court, entry 141, showing cause number; names of estate, wards and heirs; and file box reference. Arr. alph. by names of decedents and wards. Indexed alph. by names of estates. Hdw. 600 pp. 18 x 13 x 3. Clk. off.

## 165. FINAL ORDERS INHERITANCE TAX, 1931-. 1 f. b.

Schedules of all property and affidavits of executors or administrators, trustees or heirs for inheritance tax appraisals, showing dates of schedule, decedent's death, and will admitted to probate; names of decedent and affiant; location, description, and assessed valuation of real property; itemized list of claims, debts, and expenses; and amount of deduction claimed. Arr. chron. by date of schedule. No index. Hdw. and typed. 10½ x 13 x 5. Clk. vt.

## 166. COMPLETE QUIET TITLE RECORD, Sept. 28, 1911-June 30, 1920. 1 vol. (1)

Transcripts of judgments rendered in civil causes involving titles to real property, showing dates of filing and judgment; cause number; names of plaintiff, defendant, attorneys, and witnesses; location and description of property; and judgment rendered. Arr. chron. by date of filing. Indexed alph. by names of plaintiff and defendant. Typed. 596 pp. 18 x 13 x 3. Clk. vt.

## JUVENILE CAUSES

## 167. JUVENILE COURT DOCKET, Feb. 10, 1906-. 2 vols. (1, 2).

Record of actions and proceedings in juvenile causes, showing cause number; name, age, and classification of juvenile; names of defendant and witnesses; names and addresses of parents or guardian; and disposition of cause. Arr. numer. by cause no. Indexed alph. by name of juvenile. Hdw. Feb. 10, 1906-Dec. 4, 1926; typed Dec. 5, 1926-. 300 pp. 18 x 13 x 2½. Clk. vt.

## 168. JUVENILE COURT, 1906-. 2 f. b.

Original documents filed in juvenile causes consisting of affidavits, warrants, complaints, petitions, summonses, and reports and court orders, showing date of document and filing, number and nature of cause, names and addresses of juvenile and parents or guardian, names of complainant and defendant, and disposition of cause. Arr. numer. by cause no. No index. Hdw. and typed. 10 x 13 x 5. Clk. vt.

## 169. ENTRY DOCKET, Aug. 10, 1869-June 5, 1873. 3 vols. (1, 1, 2).

Record of filing of actions and fees and costs assessed in civil causes of court of common pleas, showing information as in entry 130. Arr. chron. by date of proceeding. No index. Hdw. 600 pp. 18 x 13 x 3. Attic strg. room.



## 170. ORDER BOOK, PROBATE, 1853-73. 3 vols. (A-C).

Record of actions and proceedings in estate and guardianship causes of court of common pleas, showing information as in entry 160. Arr. chron. by date action taken. Indexed alph. by name of deceased. Hdw. 625 pp. 18 x 13 x 3. Clk. vt.

## 171. ORDER BOOK [Common Pleas], Apr. 1853-Dec. 1872. 6 vols. (A-F).

Record of verdicts, judgments, and orders of court in criminal and civil causes, showing information as in entry 120. Arr. chron. by date of court term. Indexed alph. by name of defendant. Hdw. 600 pp. 18 x 13 x 3. Clk. vt.

## 172. JUDGMENT DOCKET [Common Pleas], Apr. 4, 1853-Feb. 13, ~1867. 1 vol. (1).

Record of judgments rendered in causes of common pleas court, showing dates of filing and judgment; names of plaintiff, defendant, and judgment debtor; cause number; and amounts of judgment, costs, and fees. Arr. chron. by date of judgment. Indexed alph. by name of plaintiff. Hdw. 400 pp. 16 x 12 x 2½. Attic strg. room.

## 173. EXECUTION DOCKET, COM[mon] PLEAS, 1853-73. 3 vols. (A-C).

Record of writs issued for execution on judgments rendered in causes of common pleas court, showing information as in entry 125. Arr. numer. by cause no. Indexed alph. by names of plaintiff and defendant. Hdw. 700 pp. 18 x 13 x 3. Clk. vt.

## VI. COURT OF COMMON PLEAS (1853-73)

## EVOLUTION AND STRUCTURAL ORGANIZATION

From 1853 until 1873 Fulton County had a court officially known as "The Court of Common Pleas of Fulton County," presided over by one judge. The judge was elected for a 4-year term by the voters of the judicial district and was commissioned by the Governor.<sup>1</sup> The district was composed of the counties of Fulton and Pulaski from 1853 until October 9, 1860; the counties of Cass, Fulton, Kosciusko, Miami, and Wabash from October 9, 1860 until March 6, 1871; and the counties of Fulton, Kosciusko, and Wabash after March 6, 1871.<sup>2</sup> The law provided that any vacancy in the office of

<sup>1</sup> 1 Rev. Stat. 1852, ch. 19, sec. 1. 2 Rev. Stat. 1852, ch. 8, secs. 1, 3, p. 16. Acts 1859, ch. 51, sec. 1. Jones v. Gavins, 4 Ind. 305 (1853). See footnote 15 herein.

<sup>2</sup> 2 Rev. Stat. 1852, ch. 8, sec. 3, p. 16. Acts 1859, ch. 51, sec. 1. Acts 1861, ch. 28, sec. 1. Acts 1871, ch. 31, sec. 1.

judge was to be filled through appointment by the Governor.<sup>3</sup>

#### FUNCTIONS AND RECORDS

The court of common pleas had exclusive original jurisdiction of insanity inquests and commitments; the probate of wills; the granting and revocation of letters testamentary, letters of administration, and letters of guardianship; the administration of estates of decedents, minors, and insane persons; and the examination and allowance of accounts of executors, administrators, and guardians. The court also had concurrent original jurisdiction of dower proceedings; partition proceedings; ne exeat proceedings; habeas corpus proceedings; the appointment of commissioners to execute deeds on title bonds given by deceased obligors; naturalization proceedings under the Federal laws after March 5, 1859; and, except as hereinafter stated otherwise, all equity suits (including divorce and injunction), all civil actions at law, and all criminal cases. The court had no jurisdiction of civil actions at law for damages resulting from slander, libel, or breach of contract to marry; civil cases in which title to real estate was in issue; civil cases on bonds of State and county officers; criminal offenses punishable by death; and offenses punishable only by fine not exceeding \$3. Before March 5, 1859 the court had no jurisdiction of civil cases to recover less than \$50 or more than \$1,000, except that a consent judgment could be rendered for more than \$1,000. The court had jurisdiction of felonies only in the following instances: (1) When the defendant was in custody on a felony charge before indictment by the grand jury; (2) when the person accused of felony voluntarily submitted himself to the jurisdiction of the court while on bail before indictment; (3) when the accused person obtained a change of venue from the circuit court to the court of common pleas; and (4) when, after March 5, 1859, the Supreme Court had reversed a conviction by the circuit court, the defendant was in custody, and the circuit court was not in session.<sup>4</sup> No appellate jurisdiction was

<sup>3</sup> 1 Rev. Stat. 1852, ch. 115, sec. 2. 2 Rev. Stat. 1852, ch. 8, sec. 2, p. 16.

<sup>4</sup> 2 Rev. Stat. 1852, ch. 4, sec. 5, p. 6; ch. 8, secs. 4, 5, 7, 9, 11, 12, 14, 17, 21, 23, 25, 41, pp. 17, 20-25. Acts 1853, ch. 5, secs. 1, 2; ch. 30, sec. 1. Acts 1857, ch. 21, sec. 1. Acts 1859, ch. 52. Acts 1865 (Spec. Sess.), ch. 58.

Naturalization proceedings. U. S. Stat. 2:153, 155 (law of 1802); 4:69 (law of 1824).

Divorce. Herron v. Herron, 16 Ind. 129 (1861); Ewing v. Ewing, 24 Ind. 468 (1865).

Criminal cases. Spencer v. State, 5 Ind. 41 (1854); Johnson v. State, 14 Ind. 574 (1860); McCarty v. State, 16 Ind. 310 (1861).

vested in the court of common pleas.<sup>5</sup>

The court of common pleas was a court of record. Its judgments had the same force and effect as those of the circuit court, and were enforced in the same manner.<sup>6</sup> The court of common pleas could compel the attendance and testimony of witnesses; punish contempts; and issue all writs and orders necessary and incidental to the exercise of the jurisdiction mentioned in the preceding paragraph.<sup>7</sup> The judge could solemnize marriages; take acknowledgments of deeds; take and certify depositions in any case not pending in his own court; and act as accounting officer or master in chancery in any cause referred to him by the circuit court.<sup>8</sup> He served as judge of the court of conciliation from 1853 until 1865.<sup>9</sup>

Any case in which the judge was disqualified could be transferred to the circuit court for disposition.<sup>10</sup> Decisions of the court of common pleas were reviewable by the circuit court or Supreme Court.<sup>11</sup>

The clerk of the circuit court and the county sheriff served as clerk and sheriff, respectively, of the court of common pleas, and performed for the court of common pleas duties similar to those which they now perform for the circuit court while that court is exercising jurisdiction which was vested in the court of common pleas.<sup>12</sup> The district attorney prosecuted criminal cases in the court of common pleas.<sup>13</sup>

The court held four regular terms a year before October 1, 1860 and three regular terms a year thereafter. Adjourned terms could be held after March 3, 1855. Each regular term could last 2 weeks before October 1, 1860; 1 week from October 1, 1860 until March 11, 1867; 2 weeks from March 11, 1867 until March 6, 1871; and 3 weeks after March 6, 1871.<sup>14</sup>

The court of common pleas was abolished on March 6, 1873, and its jurisdiction and business were transferred to the circuit court.<sup>15</sup>

<sup>5</sup> Board of County Comrs. v. Weasner, 10 Ind. 259 (1858)

<sup>6</sup> 2 Rev. Stat. 1852, ch. 8, sec. 24, p. 20.

<sup>7</sup> *Ibid.*, sec. 28, p. 21.

<sup>8</sup> *Ibid.*, sec. 35, p. 22.

<sup>9</sup> See the essay entitled "Court of Conciliation (1853-65)."

<sup>10</sup> 2 Rev. Stat. 1852, ch. 8, sec. 10, p. 18.

<sup>11</sup> *Ibid.*, secs. 13, 20, 22, pp. 18, 19; pt. 2, ch. 1, sec. 550, p. 158; ch. 10, secs. 189-193, p. 291; ch. 11, secs. 43-46, p. 319. Acts 1853, ch. 5, secs. 1, 2; ch. 34, sec. 2. Acts 1857, ch. 21, sec. 1.

<sup>12</sup> 2 Rev. Stat. 1852, ch. 8, sec. 25, p. 20.

<sup>13</sup> See the essay entitled "District Attorney (1853-73)."

<sup>14</sup> Acts 1853, ch. 33, sec. 1. Acts 1855, ch. 27, secs. 26, 94. Acts 1859, ch. 47, sec. 21; ch. 51, sec. 3. Acts 1861, ch. 38, sec. 1. Acts 1867, ch. 34, sec. 1. Acts 1871, ch. 31, sec. 2.

<sup>15</sup> Acts 1873, ch. 29, secs. 79-88.

## VII. PROBATE COURT (1836-53)

## EVOLUTION AND STRUCTURAL ORGANIZATION

From 1836 until 1853 Fulton County had a court officially known as "The Probate Court of Fulton County," presided over by one judge who was elected for a 7-year term by the voters of the county and commissioned by the Governor of Indiana. Before any person could be commissioned as a judge of the probate court, he was required to obtain from a judge of the supreme court or from a president judge of a circuit court a certificate showing he was qualified to discharge the duties of such office.<sup>1</sup>

## FUNCTIONS AND RECORDS

The probate court had exclusive original jurisdiction of insanity inquests and commitments; the probate of wills; the granting and revocation of letters testamentary, letters of administration, and letters of guardianship; the administration of estates of decedents, minors, and insane persons; and the examination and allowance of accounts of executors, administrators, and guardians. The court also had original jurisdiction (concurrent with the circuit court) of partition proceedings; dower proceedings; proceedings for the appointment of commissioners to execute deeds on title bonds given by deceased obligors; proceedings for the authorization of the sale of guardianship property; and civil cases at law and in equity upon all demands or causes of action in favor of or against heirs, devisees, legatees, executors, administrators, or guardians, and their sureties and representatives.<sup>2</sup> No ap-

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<sup>1</sup> Acts 1828-29, ch. 26, secs. 1, 2. Rev. L. 1831, ch. 25, secs. 1, 2, 4. Rev. Stat. 1838, ch. 24, secs. 1, 2, 4. Rev. Stat. 1843, ch. 4, secs. 1, 2, 9, 72; ch. 5, sec. 1; ch. 39, secs. 1-3. See footnote 11 herein.

Marshall organization acts. Acts 1834-35 (general), ch. 25, sec. 9. Acts 1835-36 (general), ch. 17, sec. 1.

<sup>2</sup> Acts 1828-29, ch. 26, secs. 2, 5, 6, 53-55. Rev. L. 1831, ch. 25, secs. 4, 19, 22, 31, 37, 39, 47, 57. Acts 1832-33, ch. 79, secs. 9, 10. Acts 1833-34, ch. 38, secs. 1, 2. Rev. Stat. 1838, ch. 24, secs. 4, 5; ch. 77, sec. 10. Rev. Stat. 1843, ch. 39, secs. 5, 6.

No general jurisdiction in chancery except in relation to the administration of guardianship and decedents' estates. *West v. Thornburg*, 6 Blackf. 542 (1843); *Powell v. North*, 3 Ind. 392 (1852).

Sale of guardianship property. *Graeter v. Wise*, 5 Blackf. 403 (1840); *Coon v. Cook*, 6 Ind.



pellate jurisdiction was vested in the probate court.<sup>3</sup>

The court could compel the attendance and testimony of witnesses; enforce its judgments and orders; punish for contempt; and issue all writs and orders necessary and incidental to the exercise of the jurisdiction mentioned in the preceding paragraph.<sup>4</sup> The judge could solemnize marriages from 1836 until 1838 and from 1845 until 1853.<sup>5</sup>

The clerk of the circuit court and the county sheriff served as clerk and sheriff, respectively, of the probate court, and performed for the probate court duties similar to those which they now perform for the circuit court while that court is exercising jurisdiction which was vested in the probate court.<sup>6</sup>

Terms of court began on the second Monday of February, May, August, and November each year. Each term could last 6 days before January 14, 1850 and 9 days thereafter.<sup>7</sup>

Any matter within the jurisdiction of the probate court could be heard and disposed of by the circuit court, in the same manner as the probate court, when the judge of the latter court was disqualified from acting.<sup>8</sup> After June 15, 1852 the judge of the circuit court could hold regular terms of the probate court when the judge of the probate court failed to do so.<sup>9</sup> Decisions of the probate court

268 (1855).

Suit against heirs of deceased vendee for specific performance of contract for sale of real estate. *Boyle v. Moss*, 4 Blackf. 535 (1838).

Suit to enforce vendor's lien on real estate. *West v. Thornburg*, 6 Blackf. 542 (1843).

Partition proceedings. *Taylor v. Connor*, 7 Ind. 115 (1855).

Amount in controversy in suits in favor of or against their, executors, etc. *Brown v. McQueen*, 6 Blackf. 208 (1842); *High v. Taylor*, 6 Blackf. 555 (1843).

Limitation on right to trial by jury. Rev. Stat. 1838, ch. 24, sec. 34.

<sup>3</sup> Board of County Comrs., v. *Weasner*, 10 Ind. 259 (1858).

<sup>4</sup> Acts 1828-29, ch. 26, secs. 2, 6, 7. Rev. L. 1831, ch. 25, secs. 4, 5, 49. Rev. Stat. 1838, ch. 24, secs. 5, 11. Rev. Stat. 1843, ch. 39, secs. 11, 13, 30.

<sup>5</sup> Acts 1828-29, ch. 26, sec. 62. Rev. L. 1831, ch. 63, sec. 2. Rev. Stat. 1838, ch. 68, sec. 2. Rev. Stat. 1843, ch. 35, sec. 6.

<sup>6</sup> Acts 1828-29, ch. 26, secs. 3, 15; ch. 29, sec. 6. Rev. L. 1831, ch. 25, secs. 7-10, 15, 16, 18, 19, 22, 23, 32, 48. Rev. Stat. 1838, ch. 24, secs. 7, 9, 10, 15, 18, 19, 23, 24, 29, 34, 38, 46, 55. Rev. Stat. 1843, ch. 39, secs. 23, 42-45.

<sup>7</sup> Acts 1831-32, ch. 159, sec. 1. Rev. Stat. 1838, ch. 24, sec. 68. Rev. Stat. 1843, ch. 39, sec. 40. Acts 1849-50 (general), ch. 65, sec. 1.

<sup>8</sup> Acts 1829-30, ch. 29, sec. 7. Rev. L. 1831, ch. 25, sec. 6. Rev. Stat. 1838, ch. 24, sec. 6. Rev. Stat. 1843, ch. 39, sec. 9.

<sup>9</sup> Acts 1851-52, ch. 34, secs. 1, 3.



were reviewable by the circuit court or the Supreme Court.<sup>10</sup>

The probate court was abolished in 1853, and its jurisdiction and business were transferred to the court of common pleas, which had broader jurisdiction than the probate court.<sup>11</sup>

For records of probate court, see entries 141, 162.

## VIII. COURT OF CONCILIATION (1853-65)

### EVOLUTION AND STRUCTURAL ORGANIZATION

From 1853 until 1865 Fulton County had a court officially known as the "Fulton Court of Conciliation." The judge of the court of common pleas was ex officio judge of the court of conciliation.<sup>1</sup>

### FUNCTIONS AND RECORDS

The court of conciliation, which was a court of record,<sup>2</sup> had jurisdiction of civil claims and controversies submitted to it for the purpose of effecting a compromise or for determination, where the parties agreed to abide the judgment of the court. The law did not authorize an appeal to another court.<sup>3</sup>

When a reconciliation was affected, the judge entered in a book of record a memorandum thereof, signed by the respective parties, stating the nature of the controversy, or alleged cause of action, the appearance of both parties, and the facts of the reconciliation. The terms of the reconciliation were not stated unless the parties agreed to specify them. The reconciliation thus effected was the final determination of the matter in controversy.<sup>4</sup> When the parties

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<sup>10</sup> Acts 1828-29, ch. 26, sec. 4. Rev. L. 1831, ch. 24, sec. 7; ch. 25, sec. 52. Acts 1832-33, ch. 79, secs. 9, 10. Rev. Stat. 1838, ch. 24, sec. 12; ch. 25, secs. 13, 16. Rev. Stat. 1843, ch. 37, secs. 1, 9, 70; ch. 39, secs. 33-36.

<sup>11</sup> 1 Rev. Stat. 1852, ch. 92, sec. 1. 2 Rev. Stat. 1852, pt. 1, ch. 8, sec. 43. Acts 1853, ch. 30, sec. 1. Jones v. Cavins, 4 Ind. 305 (1853). See the essay entitled "Court of Common Pleas (1853-73)."

<sup>1</sup> Const. 1851, art. 7, sec. 19. 2 Rev. Stat. 1852, ch. 2, sec. 2, p. 224. Acts 1865 (Spec. Sess.), ch. 57. See the essay entitled "Court of Common Pleas (1853-73)."

The Revised Statutes of 1852 took effect on May 6, 1853. Jones v. Cavins, 4 Ind. 305 (1853).

<sup>2</sup> Beach v. Woolford, 7 Ind. 351 (1855).

<sup>3</sup> Const. 1851, art. 7, sec. 19. 2 Rev. Stat. 1852, ch. 2, sec. 1, p. 224.

<sup>4</sup> 2 Rev. Stat. 1852, ch. 2, secs. 6, 13, pp. 225, 226.

agreed to a judgment in favor of one against the other in settlement of their differences, the judgment was entered at the foot of the entry of reconciliation. A transcript of such judgment certified by the judge was filed in the office of clerk of the court of common pleas, and had the same effect, and could be enforced in the same manner, as a judgment of the court of common pleas.<sup>5</sup>

When any cause of action was claimed by or against any person for which a civil action might be brought, or when a controversy existed between two or more persons arising out of such alleged cause of action, the parties could appear before the court of conciliation, at any place within the county in which either party resided, for the purpose of effecting a compromise or of having a determination of all or any of such claims or controversies;<sup>6</sup> and, upon the appearance of the parties, it was the duty of the court to require them respectively to state the nature of the controversy between them, and present such claim as alleged. The statement could be made orally or in writing.<sup>7</sup>

When the parties, without a reconciliation, voluntarily submitted their matters of difference to the court for determination and agreed to abide the judgment, such submission was entered in a book of record and signed by the respective parties. On the hearing the court could take the statements of the parties, with or without oath. These controversies were determined according to conscience and right without regard to technical rules. The judgment had the same effect, and could be enforced in the same manner, as a judgment of the court of common pleas.<sup>8</sup>

The admissions and declarations (other than the entry of conciliation or judgment) made by the parties in proceedings before the court of conciliation were not binding in any other judicial proceedings.<sup>9</sup>

On claims for libel, slander, assault and battery, false imprisonment, and malicious prosecution, the complaining party could give written notice to the opposite party informing him of the claim and requiring him to appear at a specified place and time, in relation thereto, within 5 days, before

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<sup>5</sup> *Ibid.*, secs. 7, 13.

<sup>6</sup> *Ibid.*, sec. 11, p. 226.

<sup>7</sup> *Ibid.*, sec. 12.

<sup>8</sup> *Ibid.*, secs. 14, 18.

<sup>9</sup> *Ibid.*, sec. 20, p. 227.

the court of conciliation.<sup>10</sup> The notice could be served by the sheriff or any other person, in the same manner as a summons in a civil action.<sup>11</sup> At the time specified in the notice, or at a later date set by the court, the parties were received by the judge, apart from all other persons, except that infants were attended by a guardian, and a female was attended by her husband or friend. The judge heard the allegations of the parties, informed them of their rights, endeavored to reconcile their differences, and advised such a compromise of the claim or controversy as he deemed just.<sup>12</sup> If, after the service of such notice, either party failed to appear, or if the parties appeared and did not become reconciled or did not submit the matter for determination, the judge made an entry in a book of record, stating the nature of the charge, the notice given, the proof of such service, and the failure of either party to appear or the appearance of the parties and their failure to be reconciled.<sup>13</sup> The entries in such book of record, or certified copies thereof, signed by the judge, were evidence of the facts therein stated; and it was the duty of the judge to give a transcript of the entries in any case, certified by him, from his record, to either party on request.<sup>14</sup> In any cause of action thereafter brought for recovery of damages for a cause of action mentioned above, except when the defendant was arrested, the plaintiff could not recover costs unless he produced such certified copy at the trial, and unless it thereby appeared that the notice was duly served, and that he appeared pursuant thereto, or that both parties appeared without notice. The defendant could not recover costs in such action when it appeared that he failed to appear pursuant to such notice.<sup>15</sup>

The court of conciliation was abolished in 1865, and no such tribunal has existed since then.<sup>16</sup>

## IX. JURY COMMISSIONERS

### EVOLUTION AND STRUCTURAL ORGANIZATION

Under the requirements of an act of 1881, Fulton County has two jury commissioners appointed annually by the judge of

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<sup>10</sup> *Ibid.*, sec. 3, p. 224.

<sup>11</sup> *Ibid.*, sec. 4.

<sup>12</sup> *Ibid.*, sec. 5.

<sup>13</sup> *Ibid.*, sec. 8, p. 225.

<sup>14</sup> *Ibid.*, sec. 9.

<sup>15</sup> *Ibid.*, sec. 10. Nelson v. Turner, 7 Ind. 36 (1855).

<sup>16</sup> Acts 1865 (Spec. Sess.), ch. 57.

the circuit court. The commissioners must be electors of the county; must be of good moral character; must be of different political parties; and must not be a party to or be interested in any cause pending in the county which may be tried by jury.<sup>1</sup> One commissioner must be a resident of the town or city in which the court is held.<sup>2</sup>

Each commissioner must take an oath that he will honestly, and without favor or prejudice, perform the duties of jury commissioner during his term of office; that, in selecting persons to be drawn as jurors, he will select none but persons whom he believes to be of good repute for intelligence and honesty; that he will select none whom he has been or may be requested to select; and that in all of his selections he will endeavor to promote only the impartial administration of justice.<sup>3</sup>

When a vacancy exists in the office, or when any commissioner fails to act when required, the judge of the circuit court must appoint some person to fill such vacancy or to act for the time being; and the appointee must possess the qualifications and take the same oath as was required of his predecessor. As compensation for his services, each commissioner receives a per diem fixed by the judge of the circuit court.<sup>4</sup>

#### FUNCTIONS AND RECORDS

Immediately after qualifying, the commissioners select the names of twice as many persons as will be required by law for service as grand and petit jurors in the courts of the county, for all the terms of courts within the calendar year next ensuing. These names are of legal voters and citizens of the United States; are taken from the current tax duplicates and schedules; are written on separate slips of paper; and are deposited in a jury box furnished by the clerk of the circuit court.<sup>5</sup> After the names so selected are deposited therein, the box is locked and turned over to the clerk of the circuit court. The key to the box is retained by the commissioner who is not an adherent of the same political party as is the clerk.<sup>6</sup>

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<sup>1</sup> Acts 1881 (Spec. Sess.), 1899; Burns 4-3301, 4-3302; Baldwin 1266, 1274.

<sup>2</sup> Acts 1899; Burns 4-3301; Baldwin 1266. *Dale v. State*, 200 Ind. 408, 164 N. E. 260 (1928).

<sup>3</sup> Acts 1881 (Spec. Sess.), 1899; Burns 4-3001; Baldwin 1266.

<sup>4</sup> Acts 1881 (Spec. Sess.), 1939; Burns, 1941 suppl., 4-3303; Baldwin, 1939 suppl., 1275.

<sup>5</sup> Acts 1881 (Spec. Sess.), 1939; Burns, 1941 suppl., 4-3304; Baldwin, 1939 suppl., 1267.

<sup>6</sup> *Ibid.*



At 10 A. M. on the Monday immediately preceding the commencement of any term of court, or, at any time following said hour which may be practicable for such drawing, the clerk shakes the box; opens it in his office in the presence of the jury commissioners; and publicly draws therefrom such number of names of competent persons as the judge of such court shall order to be summoned as prospective jurors of such court.<sup>7</sup>

From 1852 until 1881 the board of commissioners selected the names from which grand jurors were drawn;<sup>8</sup> and the treasurer, auditor, and recorder selected the names from which petit jurors were drawn.<sup>9</sup> Prior to 1852 the board of commissioners selected the names from which both grand and petit jurors were drawn.<sup>10</sup>

## X. PROBATION OFFICER

### LEGAL STATUS

The office of probation officer has existed in Fulton County ever since 1910 under the permissive authority of acts of 1903 and 1925. He is appointed for an indefinite term by the judge of the circuit court and may be removed by the judge at any time. His authority expires with the expiration of the judge's term. Recommendations for the discharge of a probation officer may be made by the State Probation Department.<sup>1</sup>

He must have successfully passed an examination conducted by the State Probation Department, and been certified by such department, which determines all eligibility requirements.<sup>2</sup> He must be at least 21 years old; must be of good moral character; must be a citizen of the State; and must be (a) a college graduate, or (b) a high school graduate

<sup>7</sup> Acts 1937; Burns, 1941 suppl., 4-3320; Baldwin, 1937 suppl., 1267-1.

<sup>8</sup> 2 Rev. Stat. 1852, ch. 4, sec. 2, p. 387. Acts 1875 (Spec. Sess.), ch. 12, sec. 2.

<sup>9</sup> 2 Rev. Stat. 1852, ch. 9, sec. 1, p. 24. Acts 1853, ch. 59, sec. 1.

<sup>10</sup> Acts 1817-18 (general), ch. 48, secs. 1, 2. Rev. L. 1824, ch. 56, secs. 1, 2, 5. Acts 1825, ch. 16, sec. 7. Acts 1826-27, ch. 26, secs. 1, 3. Rev. L. 1831, ch. 53, secs. 1, 4, 5. Rev. Stat. 1838, ch. 57, secs. 1, 4, 5. Acts 1840-41 (general), ch. 44. Rev. Stat. 1843, ch. 50, secs. 1, 3, 4, 7, 10.

<sup>1</sup> Const. 1851, art. 15, sec. 2. Acts 1903, ch. 237, sec. 2. Acts 1925, ch. 218, sec. 1. Acts 1927; Burns 9-2212; Baldwin 2363. Acts 1933; Burns 9-2904; Baldwin 15340. Op. Atty. Gen. 1933, p. 581; 1935, p. 166.

<sup>2</sup> Acts 1933; Burns 9-2904; Baldwin 15340.



with 1 year's experience in social welfare work, or (c) have had 4 years' experience as a paid probation officer.<sup>3</sup>

He receives a salary in an amount fixed by the judge, not exceeding \$2,500 per year. On allowance of the judge, the probation officer receives the actual expenses necessarily incurred by him in the performance of his official duties.<sup>4</sup>

When required by the judge the probation officer must post bond in an amount fixed by the judge. The bond is approved and kept by the judge.<sup>5</sup> The probation officer must take an oath to support the State and Federal Constitutions and faithfully discharge the duties of his office.<sup>6</sup>

#### FUNCTIONS AND RECORDS

The probation officer acts under the direction of the court and under the supervision of the State Probation Department. He investigates all juvenile and criminal cases referred to him for investigation by the court; furnishes to each probationer a written statement of the conditions of probation and instructs him regarding the same; keeps informed concerning the conduct and condition of each probationer under his supervision by visiting, requiring reports, and otherwise; aids and encourages probationers to improve their conduct and conditions; collects and issues receipts for money due from probationers; acts as parole officer over persons released on parole from any correctional institution upon request of authorities thereof and consent of the appointing judge; cares for children under 14 years old while in custody of the court; and has the power of a constable or sheriff in the execution of his duties.<sup>7</sup>

He may take under his supervision probationers transferred from the jurisdiction of another court after sending to such court a written notice bearing the written approval of the judge of the court to which he is attached.<sup>8</sup>

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<sup>3</sup> Information obtained from Mrs. Emory T. Scholl, director of the State Probation Department, on January 23, 1941, by William E. Chambers.

<sup>4</sup> Acts 1927; Burns 9-2212; Baldwin 2363. Acts 1933; Burns 9-2905; Baldwin 15341.

<sup>5</sup> Acts 1927; Burns 9-2213; Baldwin 2264.

<sup>6</sup> Const. 1851, art. 15, sec. 4.

<sup>7</sup> Acts 1903, ch. 237, sec. 2. Acts 1925, ch. 218, sec. 1. Acts 1927; Burns 9-2212, 9-2213; Baldwin 2363, 2264. Acts 1903, 1905, 1907, 1913; Burns 9-2814, 9-2815; Baldwin 1761, 1762. Acts 1933; Burns 9-2903; Baldwin 15339. Acts 1921; Burns 28-509; Baldwin 6702.

<sup>8</sup> Acts 1927; Burns 9-2214; Baldwin 2365.

He must attend conferences of probation officers or of judges arranged by the State Probation Department for a study of probation problems.<sup>9</sup>

The probation officer must keep a detailed record of his work and an accurate and complete account of all moneys collected by him. From time to time he reports to the judge concerning the conduct and condition of probationers, the moneys collected by him, and other information required by the judge. Such reports are made monthly and at the expiration of the probation period of any probationer, and at such other times as required by the court.<sup>10</sup>

The duties of this office must be performed by the county director of public welfare when an order of the circuit court so required.<sup>11</sup>

## XI. SHERIFF

### LEGAL STATUS

The office of sheriff has existed in Fulton County ever since 1836 under the requirements of the Constitution of 1816 and the Constitution of 1851. The sheriff is elected for a 2-year term by the voters of the county. No person is eligible to hold the office more than 4 years in any 6-year period.<sup>1</sup> He is commissioned by the Governor of Indiana<sup>2</sup> and holds office until his successor is elected and qualified.<sup>3</sup> The sheriff must be an elector of the county at the time of his election, must have been an inhabitant thereof throughout the preceding year,<sup>4</sup>

<sup>9</sup> Acts 1933; Burns 9-2905; Baldwin 15341.

<sup>10</sup> Acts 1927; Burns 9-2211, 9-2213; Baldwin 2362, 2364.

<sup>11</sup> Acts 1936 (Spec. Sess.); Burns, 1941 suppl., 52-1120; Baldwin, 1937 suppl., 14078-21.

<sup>1</sup> Const. 1816, art. 4, sec. 25. Const. 1851, art. 2, sec. 11; art. 6, sec. 2. Rev. L. 1831, ch. 97, sec. 5. Rev. Stat. 1838, ch. 99 (first act), sec. 5. Rev. Stat. 1843, ch. 4, secs. 1, 10. 2 Rev. Stat. 1852; Burns 49-2801; Baldwin 5493. Gemmer v. State ex rel. Stephens, 163 Ind. 150, 71 N. E. 478 (1904).

Fulton Organization Acts. Acts 1834-35 (general), ch. 25, sec. 8. Acts 1835-36 (general), ch. 16, sec. 1.

<sup>2</sup> Const. 1816, art. 11, sec. 9. Const. 1851, art. 15, sec. 6. Rev. L. 1831, ch. 97, sec. 1. Rev. Stat. 1838, ch. 99 (first act), secs. 1, 6. Rev. Stat. 1843, ch. 4, sec. 6. 1 Rev. Stat. 1852; Burns 49-201; Baldwin 13095.

<sup>3</sup> Const. 1851, art. 15, sec. 3. Rev. Stat. 1838, ch. 99 (first act), sec. 5.

<sup>4</sup> Const. 1816, art. 11, sec. 14. Const. 1851, art. 6, sec. 4.

must reside within the county after his election,<sup>5</sup> must not hold any other lucrative office,<sup>6</sup> and must not practice law.<sup>7</sup> He must post bond in an amount between \$5,000 and \$15,000, to be approved by the board of commissioners and filed with the clerk of the circuit court.<sup>8</sup> The sheriff must take an oath that he will support the State and Federal Constitutions and will faithfully discharge the duties of his office.<sup>9</sup> Before 1853 he was entitled to certain exemptions from arrest.<sup>10</sup>

The sheriff receives a regular salary of \$1,600 per year.<sup>11</sup> He is permitted to retain, as compensation for himself, the fees charged for his services in the execution of process issued by courts outside of the county and in the collection of gross income taxes as directed by the State Department of Treasury. If the sheriff furnishes and maintains the vehicles used in the discharge of his official duties, he is paid \$400 annually by the county plus a mileage allowance at the rate of 6 cents per mile for each mile necessarily traveled in serving process, transporting persons to penal and benevolent institutions, and going for and returning fugitives.<sup>12</sup> For each meal served to the prisoners in his charge, the sheriff receives

<sup>5</sup> Const. 1816, art. 11, sec. 6. Const. 1851, art. 6, sec. 6.

<sup>6</sup> Const. 1816, art. 11, sec. 13. Const. 1851, art. 2, sec. 9.

<sup>7</sup> Rev. Stat. 1838, ch. 8 (first act), sec. 6. Acts 1865, ch. 42 (misnumbered 62), sec. 2. Acts 1881 (Spec. Sess.), ch. 37, sec. 115. Acts 1905, 1941; Burns, 1941 suppl., 10-3102; Baldwin, 1941 suppl., 2636. *McCracken v. State*, 27 Ind. 491 (1867).

<sup>8</sup> Rev. L. 1831, ch. 97, secs. 2, 3. Rev. Stat. 1838, ch. 76; ch. 99 (first act), secs. 3, 7, 8. Rev. Stat. 1843, ch. 4, secs. 86, 101, ch. 38, secs. 69, 70. Acts 1905; Burns 10-3708; Baldwin 2660. 1 Rev. Stat. 1852; Burns 49-104, 49-105, 49-120; Baldwin 13057, 13063, 13068. Acts 1851-52; Burns 49-123; Baldwin 13093. 2 Rev. Stat. 1852, Acts 1937; Burns, 1941 suppl., 49-2801; Baldwin, 1937 suppl., 5493.

<sup>9</sup> Rev. L. 1831, ch. 97, secs. 4, 8. Rev. Stat. 1838, ch. 99 (first act), sec. 4. Rev. Stat. 1845, ch. 4, secs. 77, 92; ch. 38, sec. 71. Acts 1905; Burns 10-3708; Baldwin 2660. 1 Rev. Stat. 1852; Burns 49-101, 49-102, 49-104; Baldwin 13054, 13055, 13057. Acts 1937; Burns, 1941 suppl., 49-2801; Baldwin, 1937 suppl., 5493. *State ex rel. Chapman v. Lines*, 4 Ind. 351 (1853).

<sup>10</sup> Rev. Stat. 1843, ch. 52, sec. 6. 1 Rev. Stat. 1852, ch. 92, sec. 1 (repealing the foregoing laws)

<sup>11</sup> Rev. L. 1831, ch. 20, sec. 26. Rev. Stat. 1838, ch. 4 (first act), sec. 1; ch. 21, sec. 26; ch. 23 (first act), sec. 9; ch. 33, sec. 12. Rev. Stat. 1843, ch. 7, sec. 27. 1 Rev. Stat. 1852, ch. 3, sec. 4; ch. 20, sec. 25. Acts 1933; Burns 49-1004; Baldwin 7534. Acts 1879 (Spec. Sess.); Burns 49-2808; Baldwin 5503.

<sup>12</sup> Rev. Stat. 1843, ch. 55, sec. 101. 1 Rev. Stat. 1852, ch. 70, sec. 1. Acts 1933; Burns 49-1005; Baldwin 7535. Acts 1933, 1937; Burns 1941 suppl., 49-1008; Baldwin, 1937 suppl., 7538. Acts 1932 (Spec. Sess.); Burns 49-1315, 49-1316; Baldwin 7573, 7574. Acts 1919, 1921; Burns 49-1318; Baldwin 13586-1. Acts 1933, 1937; Burns, 1941 suppl., 64-2613(a); Baldwin, 1937 suppl., 15992(a). *McFarlan v. State*, 149 Ind. 149 (1897); *Board of County Comrs. v. Baker*, 215 Ind. 133, 19 N. E. (2d) 250 (1939). *Op. Atty. Gen.* 1939, p. 582; 1934, p. 367; 1938, p. 303; 1939, pp. 171, 258, 328.

an allowance not exceeding 20 cents, as determined annually by the State Examiner.<sup>13</sup>

For sufficient legal causes the sheriff may be removed from office by the circuit court, after trial by jury on an accusation presented by the grand jury or verified by the oath of any person.<sup>14</sup> If the sheriff be convicted of a felony, or of permitting the lynching of any prisoner in his custody, the judgment of conviction must declare his office vacant.<sup>15</sup>

Any vacancy in the office of sheriff is filed through appointment by the board of commissioners. The coroner performs the duties of sheriff until a new appointment is made. The appointee must take an oath and post bond, as was required of his predecessor; and he holds office for the unexpired term and until his successor is elected and qualified.<sup>16</sup>

The sheriff may appoint one deputy and one or more assistants under authority from the board of commissioners. The county council fixes their salaries, which must be not less than \$75 nor more than \$125 per month. The sheriff may require the deputy to give bond. The deputy must take the oath required of the sheriff, may perform all the official duties of the sheriff, and is subject to the same regulations and penalties. The sheriff may remove such deputy and assistants at any time, and is responsible for their official acts.<sup>17</sup>

<sup>13</sup> Rev. L. 1831, ch. 22, sec. 9. Rev. Stat. 1838, ch. 82, sec. 3. Rev. Stat. 1843, ch. 55, sec. 19; ch. 57, secs. 4, 9, 10. 1 Rev. Stat. 1852, ch. 58, sec. 11 (repealed by Acts 1937, ch. 157, sec. 3). 1 Rev. Stat. 1852; Burns 13-1012, 13-1013; Baldwin 13454, 13455. Acts 1935; Burns, 1941 suppl., 49-1323; Baldwin, 1935 suppl., 13455-1. Op. Atty. Gen. 1934, p. 107.

<sup>14</sup> Const. 1851, art. 2, secs. 6, 7; art. 6, sec. 8. Acts 1897, 1899; Burns 49-821 to 49-834, 49-836; Baldwin 13154 to 13166, 13050, 13168. Acts 1875; Burns 49-837; Baldwin 13052.

<sup>15</sup> Acts 1905; Burns 10-3309, 10-3310; Baldwin 2530, 2531. Acts 1897, 1899; Burns 49-834; Baldwin 13050.

<sup>16</sup> Const. 1851, art. 6, sec. 9. Rev. L. 1831, ch. 97, secs. 6, 7, 9. Rev. Stat. 1838, ch. 99 (first act), secs. 7, 9, p. 565. Rev. Stat. 1843, ch. 4, secs. 140, 155, 162, 163; ch. 28, sec. 83. Acts 1881 (Spec. Sess.); Burns 29-701; Baldwin 7081. 1 Rev. Stat. 1852; Burns 49-405, 49-408, 49-409; Baldwin 13104, 13106, 13107. 2 Rev. Stat. 1852; Burns 49-2902; Baldwin 5437. Akers v. State ex rel. Kent, 8 Ind. 484 (1856); State ex rel. Culbert v. Linkhauer, 142 Ind. 94, 41 N. E. 325 (1895). Information obtained from Omer Stokes Jackson, Attorney General of Indiana, on August 29, 1939, by W. Davis Hamilton.

<sup>17</sup> Rev. L. 1831, ch. 97, sec. 10. Rev. Stat. 1838, ch. 99 (first act), sec. 10, p. 565. Rev. Stat. 1843, ch. 38, sec. 79. 1 Rev. Stat. 1852, Acts 1855, 1925; Burns 49-501; Baldwin 13108. 1 Rev. Stat. 1852; Burns 49-502; 49-503; Baldwin 13109, 13110. Acts 1921; Burns 49-504; Baldwin 13111. Acts 1933, 1935, 1937; Burns, 1941 suppl., 49-1002; Baldwin, 1937 suppl., 7532. 2 Rev. Stat. 1852; Burns 49-2804; Baldwin 5496. Boaz v. Tate, 43 Ind. 60 (1873). Op. Atty. Gen. 1934, p. 256; 1937, p. 324.

## FUNCTIONS AND RECORDS

The sheriff is a conservator of the peace within the county.<sup>18</sup> He is required to arrest without process all persons who within his view commit any criminal offense under the State Laws, and detain them in custody during investigation of the cause of the arrest;<sup>19</sup> suppress all breaches of the peace, having authority to call to his aid the power of the county;<sup>20</sup> pursue and commit to jail all felons;<sup>21</sup> maintain the jail and take care of the prisoners confined therein (persons held for investigation, detained witnesses, defendants awaiting trial, insane persons, and convicts);<sup>22</sup> execute all process, orders, and warrants directed to him by legal authority,<sup>23</sup> and make returns thereon;<sup>24</sup> and to preserve and maintain order in the circuit

<sup>18</sup> Rev. L. 1831, ch. 21, sec. 10. Rev. Stat. 1838, ch. 22, sec. 10. Rev. Stat. 1843, ch. 18, sec. 72. 2 Rev. Stat. 1852; Burns 49-2802; Baldwin 5494.

<sup>19</sup> Rev. L. 1831, ch. 97, sec. 10. Rev. Stat. 1838, ch. 99 (first act), sec. 10. Rev. Stat. 1843, ch. 38, sec. 73; ch. 40, secs. 43-47. 2 Rev. Stat. 1852; Burns 49-2802; Baldwin 5494.

<sup>20</sup> Rev. L. 1831, ch. 97, secs. 10, 14. Rev. Stat. 1838, ch. 99 (first act), sec. 10. Rev. Stat. 1843, ch. 38, secs. 73, 80. 2 Rev. Stat. 1852; Burns 49-2802; Baldwin 5494.

<sup>21</sup> Rev. Stat. 1838, ch. 99 (first act), sec. 10. Rev. Stat. 1843, ch. 38, sec. 73. 2 Rev. Stat. 1852; Burns 49-2802; Baldwin 5494.

<sup>22</sup> Rev. L. 1831, ch. 42, sec. 3; ch. 75, sec. 7; ch. 97, sec. 10. Rev. Stat. 1838, ch. 73, sec. 3; ch. 82; ch. 83; ch. 99 (first act), sec. 10. Rev. Stat. 1843, ch. 38, sec. 73; ch. 57, sec. 3. 1 Rev. Stat. 1852; Burns 13-1004, 13-1011; Baldwin 13453, 13465.

<sup>23</sup> Rev. L. 1831, ch. 1, secs. 1, 2; ch. 17, sec. 2; ch. 20, sec. 23; ch. 24, sec. 6; ch. 26, sec. 38; ch. 36, sec. 17; ch. 42, sec. 1; ch. 43, secs. 3, 8; ch. 49, sec. 2; ch. 53, sec. 2; ch. 73 (misnumbered 78), sec. 10; ch. 81, sec. 4; ch. 97, sec. 10; ch. 103, sec. 1; ch. 108, secs. 2-4. Rev. Stat. 1838, ch. 21, sec. 29; ch. 23 (first act), sec. 5; ch. 30, sec. 6; ch. 43, sec. 2; ch. 46, sec. 3; ch. 49, secs. 1, 2; ch. 57, (first act), sec. 2; ch. 81 (first act), secs. 10, 51; ch. 81 (sixth act), sec. 1, p. 463; ch. 99 (first act), secs. 10, 12. Rev. Stat. 1843, ch. 4, sec. 121; ch. 12, sec. 81; ch. 38, secs. 73, 76, 88; ch. 45, secs. 160-162, 170; ch. 46, secs. 7, 167-171; ch. 48, secs. 6, 9, 32, 100, 102; ch. 50, secs. 8, 14; ch. 54, secs. 70, 93. 2 Rev. Stat. 1852, ch. 1, secs. 132, 134, p. 379; ch. 9, sec. 2, p. 24. Acts 1881 (Spec. Sess.); Burns 2-802 *et seq.*, 3-522, 3-1910 to 3-1912, 3-2705; Baldwin 83 *et seq.*, 791, 1026 to 1029, 1202. Acts 1859; Burns 4-3308; Baldwin 1279. Acts 1907; Burns 9-821; Baldwin 2117. Acts 1905; Burns 10-3707; Baldwin 2654. 2 Rev. Stat. 1852; Burns 49-2803; Baldwin 5493.

<sup>24</sup> Rev. L. 1831, ch. 36, secs. 17, 28; ch. 72, sec. 4; ch. 73 (misnumbered 78), secs. 8, 51. Rev. Stat. 1838, ch. 6, sec. 6; ch. 80, sec. 4; ch. 81, sec. 8; ch. 99 (first act), sec. 13; ch. 112, sec. 1. Rev. Stat. 1843, ch. 40, secs. 26-29, 32, 457, 469; ch. 41, sec. 14; ch. 48, secs. 10, 73; ch. 54, secs. 19, 70. 2 Rev. Stat. 1852, pt. 1, ch. 9, sec. 2, p. 24, pt. 2, ch. 1, secs. 109, 415, pp. 52, 131 (both repealed by Acts 1863, ch. 5, sec. 5); pt. 3, ch. 1, sec. 139, p. 380 (repealed by Acts 1881 (Spec. Sess.), ch. 36, sec. 323); pt. 3, ch. 4, sec. 6, p. 387. Acts 1881 (Spec. Sess.); Burns 3-1913, 3-1914; Baldwin 1029, 1030. Acts 1905; Burns 9-1034; Baldwin 2179.



court (also formerly in the probate court and court of common pleas).<sup>25</sup>

The sheriff makes arrests on warrants issued on indictments and affidavits, and detains the arrested persons in jail<sup>26</sup> or releases them on bail as provided by law;<sup>27</sup> formerly adjourned court when the judge was absent;<sup>28</sup> serves summonses in cases of misdemeanors;<sup>29</sup> deputizes bystanders to aid him in protecting persons from being lynched;<sup>30</sup> calls the petit jury for civil and criminal cases as prescribed by law or directed by the court;<sup>31</sup> performs the duties of bailiff of the circuit court if no bailiff is appointed by the judge of that court;<sup>32</sup> transports persons committed to the charitable, correctional, and penal institutions operated by the State;<sup>33</sup>

<sup>25</sup> Circuit court. Rev. L. 1824, ch. 100, sec. 10. Rev. Stat. 1838, ch. 99 (first act), sec. 10. Rev. Stat. 1843, ch. 38, sec. 73. 2 Rev. Stat. 1852, ch. 6, sec. 4, p. 11.

Probate court. Rev. L. 1831, ch. 25, secs. 7, 48. Rev. Stat. 1838, ch. 24, secs. 7, 10. Rev. Stat. 1843, ch. 39, secs. 12, 17, 42, 45. Court abolished. 1 Rev. Stat. 1852, ch. 92, sec. 1. 2 Rev. Stat. 1852, ch. 8, sec. 43, p. 23.

Court of common pleas. 2 Rev. Stat. 1852, ch. 8, sec. 25, p. 20. Court abolished. Acts, 1873; Burns 4-328; Baldwin 1417.

<sup>26</sup> Rev. Stat. 1838, ch. 27, sec. 14; ch. 28, sec. 4; ch. 45, secs. 1-4; ch. 48, sec. 2; ch. 51, secs. 1, 7. Rev. Stat. 1843, ch. 20, secs. 1, 22; ch. 45, sec. 185; ch. 54, secs. 18, 20. 2 Rev. Stat. 1852, ch. 1, secs. 106, 107, p. 51. Acts 1905, 1937; Burns, 1941 suppl., 9-1001; Baldwin, 1937 suppl., 2134. 1 Rev. Stat. 1852, 1865 (Spec. Sess.); Burns 13-1009; Baldwin 13463.

Proceedings by insolvent debtor to obtain release on assignment for benefit of creditors. Rev. L. 1831, ch. 27, sec. 14.

<sup>27</sup> Rev. L. 1831, ch. 26, sec. 90; ch. 97, sec. 10. Rev. Stat. 1838, ch. 26 (first act), sec. 90; ch. 51, sec. 8. Rev. Stat. 1843, ch. 54, sec. 21; ch. 57, secs. 22, 23. 2 Rev. Stat. 1852, ch. 1, sec. 108, p. 51.

<sup>28</sup> Rev. L. 1831, ch. 22, sec. 7. Rev. Stat. 1838, ch. 23 (first act), sec. 7. Rev. Stat. 1843, ch. 38, sec. 34.

<sup>29</sup> Acts 1905, 1937; Burns, 1941 suppl., 9-1001; Baldwin, 1937 suppl., 2134. Acts 1939; Burns, 1941 suppl., 47-2307, 47-2308; Baldwin, 1939 suppl., 11189-174, 11189-175.

<sup>30</sup> Acts 1905; Burns 10-3309, 10-3310; Baldwin 2530, 2531. State ex rel. Maxwell v. Dudley, 161 Ind. 431, 68 N. E. 899 (1903).

<sup>31</sup> Acts 1881 (Spec. Sess.); Burns 2-2002; Baldwin 327. Acts 1905; Burns 9-1501; Baldwin 2246.

<sup>32</sup> Acts 1921, 1935; Burns, 1941 suppl., 4-3107; Baldwin, 1935 suppl., 1256.

<sup>33</sup> Rev. L. 1831, ch. 26, secs. 86, 87; ch. 41, secs. 25, 26. Rev. Stat. 1838, ch. 26, secs. 86, 87. Rev. Stat. 1843, ch. 54, sec. 74. 2 Rev. Stat. 1852, ch. 1, secs. 136, 137, p. 379. Acts 1905; Burns 9-2232, 22-2013; Baldwin 2339, 4206. Acts 1927; Burns 22-1213; Baldwin 4305. Acts 1911; Burns 22-1716; Baldwin 4230. Acts 1919; Burns 22-1809; Baldwin 4264.

sells certain estrays<sup>34</sup> and driftage;<sup>35</sup> seizes and sells property as directed by any circuit court or superior court,<sup>36</sup> takes security bonds in connection with such seizures and sales,<sup>37</sup> and executes conveyances to the purchasers;<sup>38</sup> collects fee-bills issued by authorized public officials;<sup>39</sup> executes the process of the Supreme Court of Indiana,<sup>40</sup> the Appellate Court of Indiana,<sup>41</sup> the Indiana Tax Board,<sup>42</sup> the State Department of Treasury (collection of gross income tax,<sup>43</sup> the State Unemployment Compensation Board (collection of assessments against employers),<sup>44</sup> the State Industrial Board,<sup>45</sup> the county board of election commissioners, and the county board of canvassers,<sup>46</sup> when officially directed to do so; attends sessions of the board of commissioners,<sup>47</sup> county council,<sup>48</sup>

<sup>34</sup> Rev. L. 1831, ch. 35, sec. 8. Rev. Stat. 1838, ch. 37, sec. 8. Rev. Stat. 1843, ch. 21, sec. 12. 1 Rev. Stat. 1852; Burns 51-311; Baldwin 13228.

<sup>35</sup> Rev. L. 1831, ch. 35, sec. 9. Rev. Stat. 1838, ch. 37, sec. 10. Acts 1901, 1913; Burns 51-332; Baldwin 13259.

<sup>36</sup> Rev. L. 1831, ch. 6, secs. 6, 7; ch. 7, sec. 5; ch. 36, secs. 2, 6, 11, 25, 26; ch. 79, sec. 5; ch. 80, sec. 6. Rev. Stat. 1838, ch. 6, secs. 6, 7, 11, 18; ch. 7 (first act), sec. 5; ch. 44, secs. 25, 26; ch. 88, secs. 4-6. Rev. Stat. 1843, ch. 40, secs. 371-384, 390-392, 407, 413-423; ch. 41, secs. 12-14, 30, 50; ch. 42, sec. 17; ch. 40, sec. 167. 2 Rev. Stat. 1852, ch. 1, secs. 445, 446, 457, 458, pp. 137, 139. Acts 1881 (Spec. Sess.); Burns 2-3601, 3-1819; Baldwin 574, 1014.

<sup>37</sup> Rev. L. 1831, ch. 15, sec. 7; ch. 80, sec. 5. Rev. Stat. 1838, ch. 14 (first act), sec. 5; ch. 26, sec. 91; ch. 39 (first act); ch. 88, sec. 5. Rev. Stat. 1843, ch. 40, secs. 385-387; ch. 41, sec. 34.

<sup>38</sup> Rev. Stat. 1843, ch. 40, secs. 424-426. 2 Rev. Stat. 1852, ch. 1, sec. 472, p. 143. Acts 1881 (Spec. Sess.); Burns 2-4101; Baldwin 619. Acts 1831; Burns 3-1806; Baldwin 1008.

<sup>39</sup> Rev. Stat. 1838, ch. 40 (first act), secs. 8, 15, 16, 19; ch. 99 (first act), sec. 11. Acts 1881 (Spec. Sess.); Burns 2-3303, 2-3310; Baldwin 525, 528. Acts 1875 (Spec. Sess.); Burns 49-1425, 49-1426; Baldwin 13119, 13120. Acts 1855; Burns 49-1427, 49-1428; Baldwin 13122, 13123.

<sup>40</sup> Rev. L. 1831, ch. 24, sec. 6; ch. 97, sec. 13. Rev. Stat. 1838, ch. 25, secs. 11, 12, 19. Rev. Stat. 1843, ch. 37, secs. 126-133, 137. Acts 1891; Burns 4-228, 4-230; Baldwin 1375, 1378. 2 Rev. Stat. 1852; Burns 49-2203; Baldwin 1339. 2 Rev. Stat. 1852, Acts 1899; Burns 49-2204; Baldwin 1340.

<sup>41</sup> Acts 1891; Burns 4-228; Baldwin 1375.

<sup>42</sup> Acts 1919; Burns 64-1303; Baldwin 10705.

<sup>43</sup> Acts 1933, 1937; Burns, 1941 suppl., 64-2613(a); Baldwin, 1937 suppl., 15993(a). Op. Atty. Gen. 1938, p. 303; 1939, pp. 171, 258.

<sup>44</sup> Acts 1936 (Spec. Sess.), 1939; Burns, 1941 suppl., 52-1514(b); Baldwin, 1939 suppl., 10168-61.

<sup>45</sup> Acts 1937; Burns, 1941 suppl., 40-2217(a); Baldwin, 1937 suppl., 16515(a).

<sup>46</sup> Acts 1905; Burns 29-1408; Baldwin 7384.

<sup>47</sup> Rev. L. 1831, ch. 20, sec. 6; ch. 81, sec. 3; ch. 82, sec. 48. Rev. Stat. 1843, ch. 7, secs. 5, 25. 1 Rev. Stat. 1852; Burns 26-611; Baldwin 5226.

<sup>48</sup> Acts 1899; Burns 26-510; Baldwin 5374.

and board of review,<sup>49</sup> and executes the orders of those boards; issues licenses for the retail sale of pistols;<sup>50</sup> makes investigations of poultry dealers, and receives weekly reports from them;<sup>51</sup> kills unlicensed dogs after June 15 each year;<sup>52</sup> assists the State Board of Health in the administration of laws concerning contagious diseases;<sup>53</sup> and gives public notice of the holding of elections.<sup>54</sup> In the early days of the county he performed various duties concerning elections<sup>55</sup> and the distribution of journals and session laws of the Legislature.<sup>56</sup> Formerly he was required to bring suit for statutory penalties against persons passing bank notes issued by banks located outside the State.<sup>57</sup>

The sheriff keeps in his office, open to public inspection, written information (furnished by the State Motor Vehicle Commissioner every 90 days) as to all motor vehicle operators' and chauffeurs' licenses issued, denied, suspended, and revoked in the State.<sup>58</sup> Information concerning stolen motor vehicles is reported by the sheriff to the State Motor Vehicle Commissioner.<sup>59</sup> The sheriff receives reports of deaths resulting from the operation of motor vehicles in the county (except in cities and towns), makes immediate investigations concerning such deaths, and reports the facts to the State

<sup>49</sup> Acts 1919, 1920 (Spec. Sess.); Burns 64-1201; Baldwin 15700.

<sup>50</sup> Acts 1935, 1937; Burns, 1941 suppl., 10-4742; Baldwin, 1937 suppl., 2569-9.

Forms for these licenses are prescribed by the Superintendent of the State Police. *Ibid.*

<sup>51</sup> Acts 1917, 1929, 1932 (Spec. Sess.); Burns 42-803(b); Baldwin 10487. Acts 1903; Burns 35-411; Baldwin 8541.

<sup>52</sup> Acts 1937; Burns, 1941 suppl., 16-330; Baldwin, 1937 suppl., 3811-14.

<sup>53</sup> Acts 1917; Burns 35-504; Baldwin 8546.

<sup>54</sup> Rev. L. 1831, ch. 59, sec. 4. Rev. Stat. 1838, ch. 33, sec. 11; ch. 34, secs. 1, 3. Rev. Stat. 1843, ch. 5, secs. 8, 10, 12, 76, 135; ch. 18, secs. 21-24; ch. 25, sec. 73. 1 Rev. Stat. 1352, ch. 31, sec. 2; ch. 119, sec. 2. Acts 1881 (Spec. Sess.); Burns 29-702, 29-1703; Baldwin 7082, 7248. Demaree v. Johnson, 150 Ind. 419, 49 N. E. 1062 (1897).

<sup>55</sup> Rev. L. 1831, ch. 23, sec. 2; ch. 32, secs. 1, 16, 19, 22; ch. 57, secs. 1, 3. Rev. Stat. 1838, ch. 32, secs. 1, 28, 34; ch. 33, sec. 2; ch. 61 (first act), secs. 1-3. Rev. Stat. 1843, ch. 5, secs. 57, 58, 90, 91, 101, 110, 114, 115, 136. 1 Rev. Stat. 1852, ch. 32, sec. 3; ch. 34, secs. 7, 8. Acts 1889, ch. 87, sec. 15. Acts 1891, ch. 94, sec. 2.

<sup>56</sup> Acts 1825, ch. 34, secs. 6, 7. Rev. Stat. 1843, ch. 6, secs. 73, 75.

<sup>57</sup> Rev. Stat. 1838, ch. 75, sec. 2.

<sup>58</sup> Acts 1927, ch. 33, sec. 3. Acts 1937, 1939; Burns, 1941 suppl., 47-442; Baldwin, 1939 suppl., 11317-11.

<sup>59</sup> Acts 1921; Burns 47-314; Baldwin 11142.

Division of Public Safety within 24 hours thereafter.<sup>60</sup> All arrests made by the sheriff for the violation of laws concerning the operation of motor vehicles are reported by him to the State Motor Vehicle Commissioner.<sup>61</sup>

For public displays of fireworks in the county (except in cities and towns), the sheriff approves the location, operator, permit, and indemnity bond, in accordance with regulations prescribed by the State Fire Marshall.<sup>62</sup> From 1911 until 1935 the sheriff assisted local health authorities in quarantining, muzzling, and killing dogs in accordance with the laws concerning hydrophobia.<sup>63</sup>

The sheriff charges the fees provided by law for the services he performs and pays the same over to the county treasurer.<sup>64</sup> Fines imposed by the circuit court are collected by him and paid over to the county treasurer.<sup>65</sup>

If on account of death, sickness, or other casualty the judge of the circuit court fails for 3 consecutive days to attend court during termtime, the auditor, sheriff, and clerk of the circuit court, acting together, may appoint a temporary judge to serve until the return of the regular judge or until his successor is named.<sup>66</sup>

Whenever the sheriff is unable to attend to his duties, the coroner performs them;<sup>67</sup> and if both the sheriff and coroner are unable to act, it is then the duty of the judge of the circuit court to appoint an elisor who discharges the sheriff's duties until the disability of the sheriff or coroner is removed.<sup>68</sup>

<sup>60</sup> Acts 1933, ch. 189, sec. 2. Acts 1937, ch. 129, sec. 1. Acts 1939; Burns, 1941 suppl., 47-1915, 47-1916; Baldwin, 1939 suppl., 11189-54, 11189-55.

<sup>61</sup> Acts 1937; Burns, 1941 suppl., 47-448; Baldwin, 1937 suppl., 11317-17.

<sup>62</sup> Acts 1939; Burns, 1941 suppl., 20-1102, 20-1103; Baldwin, 1939 suppl., 2542-2, 2542-3.

Information obtained from Clem Smith, State Fire Marshal, on April 15, 1940, by W. Davis Hamilton.

<sup>63</sup> Acts 1911, ch. 98, secs. 5, 6 (repealed by Acts 1935, ch. 271, sec. 1).

<sup>64</sup> Rev. L. 1831, ch. 35, sec. 8. Rev. Stat. 1843, ch. 5, secs. 120, 121; ch. 21, sec. 13; ch. 38, sec. 75. 1 Rev. Stat. 1852, ch. 37, secs. 1, 6. Acts 1871, ch. 17, sec. 20. Acts 1933; Burns 49-1005; Baldwin 7535. Acts 1895, 1905, 1915, 1919; Burns 49-1311; Baldwin 7570. Acts 1932 (Spec. Sess.); Burns 49-1312, 49-1315, 49-1316; Baldwin 7571, 7573, 7574. Acts 1919, 1921; Burns 49-1318; Baldwin 13588-1. Acts 1895, 1903, 1913; Burns 49-1402; Baldwin 7577.

<sup>65</sup> Acts 1871, ch. 17, sec. 20. Acts 1905, 1927; Burns 9-2226 to 9-2228; Baldwin 2332, 2334, 2335.

<sup>66</sup> 2 Rev. Stat. 1852, ch. 4, secs. 4, 17. Acts 1881 (Spec. Sess.); Burns 4-3103; Baldwin 1261.

<sup>67</sup> Rev. L. 1831, ch. 97, sec. 9. 2 Rev. Stat. 1852, Acts 1933; Burns 49-2901, 49-2902; Baldwin 5436, 5437.

<sup>68</sup> Rev. Stat. 1838, ch. 8 (second act), sec. 11, p. 460. 2 Rev. Stat. 1852; Burns 4-322; Baldwin 1411.



The sheriff keeps a record of the service of process<sup>69</sup> and a record of executions. He makes an annual written report, under oath, to the circuit court showing all executions and other process in his hands, what levies he has made, the amount of money collected on each execution, and when service thereof was made, which report is to be entered on the order book of the circuit court.<sup>70</sup> He keeps a jail record,<sup>71</sup> a poultry dealers' record,<sup>72</sup> and fee and cash records.<sup>73</sup> Quarterly and at the end of his term of office he reports to the auditor the amount of all fees collected during the time intervening since his last preceding report.<sup>74</sup>

170. SHERIFF'S JAIL REGISTER, 1869-. 4 vols.

Record of prisoners committed to jail, showing date of commitment; name, age, sex, color, residence, and birthplace of prisoner; nature of offense; length of sentence; amounts of bail, fine, and fees; date and authority for release; and number and cost of meals. Arr. chron. by date of commitment. No index. Hdw. 300 pp. 15 x 10 x 2. 3 vols. attic strg. room; 1 vol. sher. off.

171. SHERIFF'S DOCKET, 1880-. 10 vols. (1-10).

Record of service on writs in civil, criminal, and probate causes, showing dates of writ and court term; cause number; nature of action; names of plaintiff, defendant, and attorneys; number of miles traveled; amount of fees; and total costs. Arr. chron. by date of court term. No index. Hdw. 588 pp. 18 x 12 x 3. 9 vols. (1-9), attic strg. room; 1 vol. (10), sher. off.

<sup>69</sup> Record required by the State Board of Accounts. Acts 1909; Burns 60-202; Baldwin 13855. Information obtained from E. P. Brennan, State Examiner, on May 18, 1939, by W. Davis Hamilton.

<sup>70</sup> Rev. Stat. 1843, ch. 57, secs. 14-16. Acts 1905; Burns 9-1034; Baldwin 2179. 1 Rev. Stat. 1852; Burns 13-1015, 13-1016; Baldwin 13457, 13458. 2 Rev. Stat. 1852; Burns 49-2807; Baldwin 5502.

<sup>71</sup> Rev. L. 1831, ch. 75, sec. 5. Rev. Stat. 1838, ch. 83, sec. 5. Acts 1909; Burns 13-1007; Baldwin 13459.

<sup>72</sup> Acts 1917, 1929, 1932 (Spec. Sess.); Burns 42-803; Baldwin 10487.

<sup>73</sup> Acts 1871, ch. 17, secs. 17, 20. Acts 1891, ch. 194, secs. 124, 125. Acts 1895; Burns 49-1401; Baldwin 7576. Acts 1895, 1903, 1913; Burns 49-1402; Baldwin 7577.

<sup>74</sup> Acts 1871, ch. 17, sec. 20. Acts 1895, 1903, 1913; Burns 49-1402; Baldwin 7577.



## 172. SHERIFF'S FOREIGN FEE BOOK, 1894-. 4 vols.

Record of fees collected for services on writs from foreign counties, showing dates of writ, service, and return; names of defendant and foreign county; nature of writ; and amounts of fees and costs. Arr. chron. by date of writ. Indexed alph. by name of county. Hdw. 240 pp. 16 x 12 x 2. Attic strg. room.

## 173. SHERIFF'S CASH BOOK, Dec. 1893-. 2 vols. (1, 2).

Record of receipts and disbursements, showing dates, nature, and amounts of receipt and disbursement; number and nature of cause; and names of plaintiff, defendant, payer, and payee. Arr. chron. by date of receipt or disbursement. No index. Hdw. 240 pp. 18 x 12 x 2. 1 vol. (1), attic strg. room; 1 vol. (2), sher. off.

## 174. JUROR'S REGISTER AND TIME BOOK, Mar. 2, 1909-. 1 vol.

Register of jurors impaneled, showing dates impaneled, discharged, and court term; names and addresses of jurors; number of days served and miles traveled; and amount of fees. Arr. chron. by date of court term. No index. Hdw. 300 pp. 15 x 11 x 2. Sher. off.

## 175. SHERIFF'S CERTIFICATE OF SALE, Oct. 13, 1881-. 3 vols. (1, 2, 2).

Record of certificates of sale issued to purchasers of property sold to satisfy judgments, showing information as in entry 180. Arr. chron. by date of certificate. Indexed alph. by name of defendant. Hdw. 600 pp. 18 x 13 x 3. Clk. vt.

## 176. SHERIFF'S CERTIFICATE OF SALE, 1918-. 6 f. b.

Original certificates of sale issued to purchasers of property sold to satisfy judgments, showing dates of judgment, sale, and certificate; names of plaintiff, defendant, and purchaser; location and description of property; and amount of judgment and sale. Arr. chron. by date of certificate. Indexed alph. by name of defendant. Hdw. 10 x 13 x 5. Clk. vt.

## 177. POULTRY DEALERS RECORD AND REPORT TO SHERIFF, 1939-. 1 f. d.

Poultry dealers' report to sheriff of purchases of poultry, showing name of dealer and dealer's license number; dates of purchase and report; name and address of vendor; and description of poultry. Arr. chron. by date of report. No index. Hdw. 24 x 13 x 4. Sher. off.

## XII. CORONER

## LEGAL STATUS

The office of coroner has existed in Fulton County ever since 1836 under the requirements of the Constitution of 1816 and the Constitution of 1851. The coroner is elected for a 2-year term by the voters of the county, without restrictions on reelection.<sup>1</sup> He is commissioned by the Governor of Indiana<sup>2</sup> and holds office until his successor is elected and qualified.<sup>3</sup> The coroner must be an elector of the county at the time of his election, must have been an inhabitant thereof throughout the preceding year;<sup>4</sup> must reside within the county after his election; and must not hold any other lucrative office.<sup>5</sup> Before May 6, 1853 he could not practice law.<sup>6</sup> He must post bond in an amount between \$1,000 and \$5,000, to be approved by the board of commissioners and filed with the clerk of the circuit court.<sup>7</sup> The coroner must take an oath that he will support the State and Federal Constitutions and will faithfully discharge the duties of his office.<sup>8</sup>

The coroner receives as compensation for himself for impaneling and swearing witnesses and making and returning an inquisition for the viewing of each body, \$5 for the first day and \$2.50 for each additional day, plus a mileage allowance of 5 cents for each mile necessarily traveled in performing his duties. When he performs the duties required of the sheriff, the coroner receives the same compensation

<sup>1</sup> Const. 1816, art. 4, sec. 25. Const. 1851, art. 6, sec. 2. Rev. L. 1831, ch. 97, sec. 5. Rev. L. 1838, ch. 99 (first act), sec. 5. Rev. Stat. 1843, ch. 4, secs. 2, 10.

Fulton Organization Acts. Acts 1834-35 (general), ch. 25, sec. 8. Acts 1835-36 (general), ch. 16, sec. 1.

Exemption of coroner from arrest. Acts 1817-18 (general), ch. 54, sec. 3. Rev. L. 1824, ch. 78, sec. 3.

<sup>2</sup> Const. 1816, art. 11, sec. 9. Const. 1851, art. 15, sec. 6. Rev. L. 1831, ch. 97, sec. 1. Rev. Stat. 1838, ch. 99 (first act), sec. 1. Rev. Stat. 1843, ch. 4, sec. 53. 2 Rev. Stat. 1852, ch. 7, sec. 1, p. 13. 1 Rev. Stat. 1852; Burns 49-201; Baldwin 13095.

<sup>3</sup> Const. 1816, art. 4, sec. 25. Const. 1851, art. 15, sec. 3. Rev. Stat. 1838, ch. 4, sec. 10.

<sup>4</sup> Const. 1851, art. 6, sec. 4. Rev. Stat. 1843, ch. 4, secs. 73, 74.

<sup>5</sup> Const. 1851, art. 2, sec. 9; art. 6, sec. 6. Rev. Stat. 1843, ch. 4, sec. 73.

<sup>6</sup> Rev. Stat. 1838, ch. 8, sec. 6. Rev. Stat. 1843, ch. 38, sec. 101. 1 Rev. Stat. 1852, ch. 92, sec. 1 (repealing previous laws). Jones v. Cavins, 4 Ind. 305 (1853).

<sup>7</sup> Rev. L. 1831, ch. 15, sec. 7; ch. 97, sec. 2. Rev. Stat. 1838, ch. 99 (first act), secs. 2, 8. Rev. Stat. 1843, ch. 4, sec. 101; ch. 38, sec. 81. Acts 1905; Burns 10-3708; Baldwin 2660. 1 Rev. Stat. 1852; Burns 49-104, 49-105, 49-120; Baldwin 13057, 13063, 13068. Acts 1851-52; Burns 49-123; Baldwin 13093. 2 Rev. Stat. 1852, Acts 1933; Burns 49-2901; Baldwin 5436.

<sup>8</sup> Const. 1851, art. 15, sec. 4. Rev. L. 1831, ch. 97, secs. 4, 8. Rev. Stat. 1838, ch. 99

allowed to the sheriff. The coroner may employ a clerk, a rate of pay not exceeding \$2 per day, to take down evidence of any inquisition,<sup>9</sup> and may appoint deputies when needed.<sup>10</sup>

For sufficient legal causes the coroner may be removed from office by the circuit court, after trial by jury on an accusation presented by the grand jury or verified by the oath of any person.<sup>11</sup> If the coroner be convicted of a felony the judgment of conviction must declare his office vacant.<sup>12</sup>

Any vacancy in the office of coroner is filled through appointment by the board of commissioners. The appointee must take oath and post bond, as was required of his predecessor; and he holds office for the unexpired term and until his successor is elected and qualified.<sup>13</sup>

There has been no major change in the office of coroner since the early days of the county, other than the abolition of the coroner's jury in 1879.<sup>14</sup>

#### FUNCTIONS AND RECORDS

The coroner is required to investigate deaths resulting from violence and other unnatural causes and inquire into the cause and manner of death.<sup>15</sup> County and city health officers must notify the coroner when they find any evidence that the death of a person was caused by violence or criminal practice or that a dead human body was buried or otherwise disposed of without a permit, and the coroner must hold an inquest concerning the death of the person mentioned in such report.<sup>16</sup>

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(first act), secs. 4, 8. Rev. Stat. 1843, ch. 4, sec. 77; ch. 38, sec. 81. Acts 1905; Burns 10-3708; Baldwin 2660. 1 Rev. Stat. 1832; Burns 49-101, 49-102, 49-104; Baldwin 13054, 13055, 13057.

<sup>9</sup> Rev. Stat. 1838, ch. 40 (first act), secs. 1, 7, 11. 1 Rev. Stat. 1852, ch. 37, secs. 1, 4. Acts 1871, ch. 17, sec. 13. Acts 1875 (Spec. Sess.); Burns 49-2917; Baldwin, 1935 suppl., 5452.

<sup>10</sup> 1 Rev. Stat. 1852; Burns 49-501, 49-502; Baldwin 13108, 13109.

<sup>11</sup> Const. 1851, art. 2, secs. 6, 7; art. 6, sec. 8. Rev. L. 1824, ch. 29, sec. 34. Rev. L. 1831, ch. 26, sec. 8. Acts 1897, 1899; Burns 49-821 to 49-833, 49-836; Baldwin 13154 to 13166, 13168. Acts 1875; Burns 49-837; Baldwin 13052.

<sup>12</sup> Acts 1897, 1899; Burns 49-834; Baldwin 13050.

<sup>13</sup> Const. 1851, art. 6, sec. 9. Rev. L. 1831, ch. 97, secs. 6, 7. Rev. Stat. 1838, ch. 99 (first act), secs. 6, 7. Rev. Stat. 1843, ch. 4, secs. 155, 162, 163; ch. 7, sec. 74. Acts 1881 (Spec. Sess.); Burns 29-701; Baldwin 7081. 1 Rev. Stat. 1852; Burns 49-405, 49-408, 49-409; Baldwin 13104, 13106, 13107. Information obtained from Omer Stokes Jackson, Attorney General of Indiana, on August 29, 1939, by W. Davis Hamilton

<sup>14</sup> Rev. L. 1831, ch. 97, secs. 15, 16. Rev. Stat. 1838, ch. 99 (1), secs. 10, 23; ch. 99 (2), secs. 1-3. Rev. Stat. 1843, ch. 5, sec. 136; ch. 37, sec. 135; ch. 38, secs. 82-84; ch. 56, secs. 1-16. 2 Rev. Stat. 1852, Acts 1871, 1879 (Spec. Sess.), 1935; Burns, 1941 suppl., 49-2904a; Baldwin, 1935 suppl., 5439a. Acts 1879 (Spec. Sess.); Burns 49-2905; Baldwin 5444.

He holds inquests without a jury,<sup>17</sup> and may subpoena witnesses and employ a physician or surgeon for post-mortum examinations.<sup>18</sup>

If the finding of an inquisition determines that the death was caused by felony, the coroner must order the arrest of any person whom he may charge with such felony,<sup>19</sup> and may require witnesses to give recognizances for their appearance at the trial of the accused. The evidence and verdict at the inquest are in writing, and are filed in the office of the clerk of the circuit court, together with all recognizances taken<sup>20</sup> and a written report giving a minute description of the deceased and valuables found with the body. If no person authorized to receive these valuables can be found after publication of notice, they are sold and the proceeds of sale are turned over to the county treasurer for the common school fund.<sup>21</sup>

The coroner acts in a nonjudicial capacity, and his findings are not binding upon any person.<sup>22</sup> When the coroner is absent from the county or unable to attend an inquest, any justice of the peace of the county may hold the inquest.<sup>23</sup>

Each death investigated by the coroner must be reported, on a blank form prescribed by the State Board of Health, within 3 days after holding the inquest, to the county or

<sup>15</sup> Rev. L. 1831, ch. 97, secs. 15-18. Rev. Stat. 1838, ch. 99 (first act), sec. 15. Rev. Stat. 1843, ch. 56, sec. 1. 2 Rev. Stat. 1852, Acts 1871, 1879 (Spec. Sess.), 1835; Burns, 1941 suppl., 49-2904a; Baldwin, 1935 suppl., 5439a.

<sup>16</sup> Acts 1907, 1913; Burns 35-115; Baldwin 8398. Op. Atty. Gen. 1934, p. 33.

<sup>17</sup> Acts 1879 (Spec. Sess.); Burns 49-2905; Baldwin 5444.

<sup>18</sup> Rev. L. 1831, ch. 97, sec. 20. Rev. Stat. 1838, ch. 99 (first act), sec. 20. Rev. Stat. 1843, ch. 56, sec. 8. 2 Rev. Stat. 1852; Burns 49-2906; Baldwin 5440.

<sup>19</sup> Rev. L. 1831, ch. 97, sec. 22. Rev. Stat. 1838, ch. 99 (first act), sec. 22. Rev. Stat. 1843, ch. 56, sec. 15. 2 Rev. Stat. 1852; Burns 49-2914; Baldwin 5448.

<sup>20</sup> Rev. L. 1831, ch. 97, sec. 18. Rev. Stat. 1838, ch. 99 (first act), sec. 21. Rev. Stat. 1843, ch. 56, sec. 9. 2 Rev. Stat. 1852; Burns 49-2907; Baldwin 5441. 2 Rev. Stat. 1852, Acts 1879 (Spec. Sess.); Burns 49-2908; Baldwin 5442.

<sup>21</sup> Rev. Stat. 1838, ch. 99 (third act), sec. 1, p. 569. Rev. Stat. 1843, ch. 56, secs. 11, 13. 2 Rev. Stat. 1852, Acts 1879 (Spec. Sess.), 1913; Burns 49-2903, 49-2910, 49-2913; Baldwin 5443, 5444, 5447.

<sup>22</sup> Const. 1816, art. 2; art. 4, sec. 25; art. 5, sec. 1. Const. 1851, art. 3, sec. 1; art. 6, sec. 2; art. 7, sec. 1. *Stults v. Board of County Comrs.*, 168 Ind. 539, 81 N. E. 471 (1907); *Peoria Cordage Co. v. Industrial Board of Illinois*, 284 Ill. 90, 119 N. E. 996 (1918); *Spiegel's House Furnishing Co. v. Industrial Board of Illinois*, 288 Ill. 422, 123 N. E. 606 (1919); *People of New York v. Coombs*, 158 N. Y. 532, 53 N. E. 527 (1899).

<sup>23</sup> Rev. L. 1831, ch. 97, sec. 23. Rev. Stat. 1838, ch. 99 (first act), sec. 23. Rev. Stat. 1843, ch. 56, sec. 16. 2 Rev. Stat. 1852; Burns 49-2915; Baldwin 5449.

city health officer having jurisdiction.<sup>24</sup> The coroner makes a written report each month, to the State Department of Public Safety, showing deaths of persons in his jurisdiction, during the preceding month, resulting from the operation of motor vehicles.<sup>25</sup>

He is a peace officer with the same power as the sheriff.<sup>26</sup> The coroner acts as sheriff in event of the absence, personal interest, or incapacity of the sheriff, or vacancy in the sheriff's office.<sup>27</sup> All judicial writs against the sheriff are executed by the coroner. This duty includes the arrest and detention of the sheriff by the coroner.<sup>28</sup>

The coroner is not required to keep any records permanently.<sup>29</sup> For records of the coroner, see entries 113, 114, 115.

### XIII. PROSECUTING ATTORNEY

#### LEGAL STATUS

The office of prosecuting attorney has existed in Fulton County ever since 1836 under the requirements of acts of 1831, 1833, 1843, 1847, and the Constitution of 1851. The prosecuting attorney is elected by the voters of the judicial circuit for a 2-year term without restrictions on reelection.<sup>1</sup> Since May 16, 1927 Fulton County alone has constituted the forty-first judicial circuit.<sup>2</sup>

He is commissioned by the Governor of Indiana<sup>3</sup> and holds office until his successor is elected and qualified.<sup>4</sup> He must

<sup>24</sup> Acts 1907, 1913; Burns 35-115; Baldwin 8398.

<sup>25</sup> Acts 1939; Burns, 1941 suppl., 47-1915, 47-1919; Baldwin, 1939 suppl., 11189-54, 11189-58.

<sup>26</sup> Rev. Stat. 1838, ch. 99 (first act), sec. 10. 2 Rev. Stat. 1843, ch. 38, sec. 23. 2 Rev. Stat. 1852, Acts 1933; Burns 49-2901; Baldwin 5436.

<sup>27</sup> Rev. L. 1831, ch. 97, sec. 9. Rev. Stat. 1838, ch. 99 (first act), sec. 9. Rev. Stat. 1843, ch. 38, sec. 83. 2 Rev. Stat. 1852; Burns 49-2902; Baldwin 5437.

<sup>28</sup> Rev. Stat. 1843, ch. 38, sec. 84. 2 Rev. Stat. 1852; Burns 49-2903; Baldwin 5438.

<sup>29</sup> Board of County Comrs. v. Gillum, 92 Ind. 511 (1884). Information obtained from E. P. Brennan, State Examiner, on August 30, 1939, by W. Davis Hamilton.

<sup>1</sup> Const. 1851, art. 7, sec. 11. Acts 1851-52, ch. 8, sec. 1. 2 Rev. Stat. 1852; Burns 49-2501; Baldwin 5456. Robison v. Moser, 203 Ind. 66, 179 N. E. 270 (1931). See footnote 20 herein.

<sup>2</sup> Before May 16, 1927 Fulton County belonged to judicial circuits always composed of more than one county. See the essay entitled "Circuit Court."

<sup>3</sup> Const. 1816, art. 11, sec. 9. Const. 1851, art. 15, sec. 6. Rev. Stat. 1843, ch. 73, secs. 1, 2. 2 Rev. Stat. 1852, ch. 3, sec. 6, p. 385. 1 Rev. Stat. 1852; Burns 49-201; Baldwin 13095.

<sup>4</sup> Const. 1851, art. 15, sec. 3. Rev. Stat. 1843, ch. 73, sec. 1.



be an elector of the judicial circuit at the time of his election, must have been an inhabitant thereof throughout the preceding year,<sup>5</sup> must reside within the judicial circuit after his election, and must not hold any other lucrative office.<sup>6</sup> An act of 1843, which was repealed by an act of 1852, provided: "No person shall be elected to the office of prosecuting attorney who shall not have a license to practice law in the circuit courts of this state."<sup>7</sup> He must post bond in the amount of \$5,000 (to be approved by the circuit judge and filed with the clerk of the circuit court),<sup>8</sup> and take an oath that he will support the State and Federal Constitutions and will faithfully discharge the duties of his office.<sup>9</sup>

The prosecuting attorney receives a regular salary of \$1,575 per year.<sup>10</sup> He is entitled to reimbursement for certain traveling expenses.<sup>11</sup> He is not permitted to retain, as compensation for himself, any fees which he collects.<sup>12</sup>

The prosecuting attorney may engage in the private practice of law, except as to matters which might conflict with his official duties.<sup>13</sup>

If the prosecuting attorney be convicted of corruption or other high crime, he may be removed from office by the Supreme

<sup>5</sup> Const. 1816, art. 11, sec. 14. Const. 1851, art. 6, sec. 4.

<sup>6</sup> Const. 1816, art. 11, secs. 6, 13. Const. 1851, art. 2, sec. 9; art. 6, sec. 6. 2 Rev. Stat. 1852; Burns 49-2501; Baldwin 5456. State ex rel. Howard v. Johnston, 101 Ind. 225 (1885).

<sup>7</sup> Rev. Stat. 1843, ch. 73, sec. 5 (repealed by 1 Rev. Stat. 1852, ch. 92).

<sup>8</sup> Rev. L. 1831, ch. 10, sec. 3. Rev. Stat. 1838, ch. 9 (first act), sec. 3. Rev. Stat. 1843, ch. 58, sec. 4; ch. 4, secs. 86-100. Acts 1851-52, ch. 8, sec. 2. 1 Rev. Stat. 1852; Burns 49-104, 49-105, 49-120; Baldwin 13057, 13063, 13068. 2 Rev. Stat. 1852; Burns 49-2502; Baldwin 5458.

<sup>9</sup> Const. 1816, art. 11, sec. 1. Const. 1851, art. 15, sec. 4. Rev. L. 1831, ch. 10, sec. 3. Rev. Stat. 1838, ch. 9 (first act), sec. 3. Rev. Stat. 1843, ch. 4, secs. 77, 78, 83, 84, 92; ch. 58, sec. 3. 2 Rev. Stat. 1852, ch. 3, sec. 6, p. 386. Acts 1905; Burns 10-3703; Baldwin 2660. 1 Rev. Stat. 1852; Burns 49-101; Baldwin 13054.

<sup>10</sup> Rev. L. 1831, ch. 10, sec. 5. Rev. Stat. 1838, ch. 9 (first act), sec. 5. Rev. Stat. 1843, ch. 13, sec. 5. Acts 1858 (Spec. Sess.), ch. 12, sec. 2. Acts 1859, ch. 114, sec. 1. Acts 1933, 1937; Burns, 1941 suppl., 49-2601; Baldwin, 1937 suppl., 7547. Acts 1933; Burns 49-2627, 49-2695; Baldwin 7549, 7550. Op. Atty. Gen. 1937, p. 636; 1938, p. 234.

<sup>11</sup> Acts 1913; Burns 49-2512; Baldwin 2267. Acts 1933, 1937; Burns, 1941 suppl., 49-2601; Baldwin, 1937 suppl., 7547.

<sup>12</sup> Acts 1933; Burns 49-2601, 49-2695; Baldwin 7547, 7550. See footnote 67 herein.

<sup>13</sup> Acts 1905; Burns 10-3102; Baldwin 2636. Acts 1917; Burns 10-3103, 10-3104; Baldwin 2637, 2638.

Liquor licenses. Acts 1901, 1913; Burns 49-2513; Baldwin 5467.

Court. This is the only method by which he may be removed from office.<sup>14</sup>

Any vacancy in the office of prosecuting attorney is filled through appointment by the Governor. The appointee must take oath and post bond as was required of his predecessor, and holds office for the unexpired term and until his successor is elected and qualified.<sup>15</sup>

The prosecuting attorney may appoint such deputies as may be necessary. Their salaries are paid on warrants drawn by the auditor after an appropriation therefor by the county council and allowance of a claim therefor by the board of commissioners.<sup>16</sup> The deputies must take the oath required of the prosecuting attorney, may perform all his official duties, and are subject to the same regulations and penalties.<sup>17</sup> The prosecuting attorney may remove such deputies at any time and is responsible for their official acts.<sup>18</sup> Whenever the prosecuting attorney is disqualified or fails to attend court the judge must appoint some person to act in his place.<sup>19</sup>

A prosecuting attorney was appointed by joint ballot of the Senate and House of Representatives from 1836 until 1843; and has been elected by the voters of the judicial circuit since 1843. His term of office was 2 years from 1836 until

<sup>14</sup> Const. 1851, art. 7, sec. 12. Acts 1897; Burns 49-819; Baldwin 13152. State ex rel. Gibson v. Friedley, 135 Ind. 119, 34 N. E. 872 (1893); State v. Patterson, 181 Ind. 660, 105 N. E. 228 (1914); State v. Redman, 183 Ind. 332, 109 N. E. 184 (1915); State ex rel. Williams v. Ellis, 184 Ind. 307, 112 N. E. 98 (1916); State v. Dearth, 201 Ind. 1, 164 N. E. 489 (1929), State ex rel. Youngblood v. Warrick Circuit Court, 208 Ind. 594, 196 N. E. 254 (1935); State ex rel. Spencer v. Marion Criminal Court, 214 Ind. 551, 15 N. E. (2d) 1020 (1938). Information obtained from Omer Stokes Jackson, Attorney General of Indiana, on July 29, 1939, by W. Davis Hamilton.

<sup>15</sup> Const. 1851, art. 5, sec. 18; art. 6, sec. 9. Rev. L. 1831, ch. 10, sec. 4. Rev. Stat. 1838, ch. 9 (first act) sec. 4. Rev. Stat. 1843, ch. 58, sec. 6; ch. 73, sec. 3. Acts 1881 (Spec. Sess.); Burns 29-701; Baldwin 7081. 1 Rev. Stat. 1852; Burns 49-402, 49-404, 49-408, 49-409; Baldwin 13101, 13103, 13106, 13107. State ex rel. Custer v. Schortemeier, 197 Ind. 507, 151 N. E. 407 (1929). Information obtained from Omer Stokes Jackson, Attorney General of Indiana, on August 29, 1939, by W. Davis Hamilton.

<sup>16</sup> 1 Rev. Stat. 1852, Acts 1855, 1925; Burns 49-501; Baldwin 13108. Acts 1933, 1937; Burns, 1941 suppl., 49-2601; Baldwin, 1937 suppl., 7547. Acts 1933; Burns 49-2602, 49-2695; Baldwin 7548, 17550.

<sup>17</sup> 1 Rev. Stat. 1852; Burns 49-502; Baldwin 13109. Stout v. Sate, 93 Ind. 150 (1884).

<sup>18</sup> 1 Rev. Stat. 1852; Burns 49-503; Baldwin 13110. Acts 1933; Burns 49-2602; Baldwin 7548.

<sup>19</sup> Rev. L. 1824, ch. 24, sec. 12. Acts 1825, ch. 17, sec. 8. Acts 1833-34, ch. 92, secs. 1-4. Rev. Stat. 1338, ch. 9 (second act), secs. 1-4. Rev. Stat. 1843, ch. 58, sec. 8. Acts 1851-52, ch. 8, sec. 5. 2 Rev. Stat. 1852; Burns 49-2505; Baldwin 5461. Perfect v. State, 197 Ind. 401, 141 N. E. 52 (1926); State ex rel. Williams v. Ellis, 184 Ind. 307, 112 N. E. 98 (1916); State ex rel. Spencer v. Marion Criminal Court, 214 Ind. 551, 15 N. E. (2d) 1020 (1938).

1847; 3 years from 1847 until 1851; and 2 years since 1851.<sup>20</sup>

#### FUNCTIONS AND RECORDS

The prosecuting attorney is a judicial officer.<sup>21</sup> He acts as attorney for the State in criminal cases under the State Laws and as attorney for the State and county in certain civil cases.<sup>22</sup> Investigations of alleged violations of criminal laws are conducted by the prosecuting attorney,<sup>23</sup> the sheriff,<sup>24</sup> or the coroner,<sup>25</sup> cooperating with one another and with State and Federal bureaus of law enforcement;<sup>26</sup> and the results of such investigations, if they point toward violations of the law, are presented to the grand jury by the prosecuting attorney.<sup>27</sup>

The prosecuting attorney or his deputy may appear before the grand jury for the purpose of interrogating witnesses or giving information relative to any matter cognizable by it or giving requested advice on any legal matter, but he cannot be present during the deliberations of the grand jury.<sup>28</sup> When an indictment is found by the grand jury, the foreman writes thereon the words "A true bill," and signs his name thereunder.

<sup>20</sup> Const. 1816, art. 12, secs. 3, 4. Const. 1851, art. 7, sec. 11. Rev. L. 1831, ch. 10, sec. 1. Rev. Stat. 1838, ch. 9 (first act), sec. 1. Rev. Stat. 1843, ch. 4, sec. 28; ch. 58, sec. 1; ch. 59, sec. 21; ch. 73, sec. 1. 2 Rev. Stat. 1852; Burns 49-2501; Baldwin 5456.

Fulton Organization Acts. Acts 1834-35 (general), ch. 25, sec. 8. Acts 1835-36 (general), ch. 16, sec. 1.

<sup>21</sup> State ex rel. Freed v. Martin Circuit Court, 214 Ind. 152, 14 N. E. (2) 910 (1938); State ex rel. Spencer v. Marion Criminal Court, 214 Ind. 551, 15 N. E. (2d) 1020 (1938).

<sup>22</sup> *Ibid.* Rev. L. 1831, ch. 10, sec. 2. Rev. Stat. 1838 (first act), ch. 9, sec. 2. Rev. Stat. 1843, ch. 13, sec. 233; ch. 37, sec. 101; ch. 73, sec. 4. Acts 1933; Burns 2-229, 49-2695; Baldwin 44, 7550. Acts 1905; Burns 4-2409; Baldwin 11595. Acts 1939; Burns, 1941 suppl., 4-3802; Baldwin, 1939 suppl., 2008-2. 2 Rev. Stat. 1852; Burns 49-2501, 49-2503, 49-2504; Baldwin 5456, 5459, 5460. Acts 1932 (Spec. Sess.); Burns 64-1511; Baldwin 15754. Misconduct of prosecuting attorney at trial. De Harity v. State, 215 Ind. 390, 19 N. E. (2d) 945 (1939).

<sup>23</sup> Acts 1905; Burns 9-706; Baldwin 2076. 2 Rev. Stat. 1852; Burns 49-2503; Baldwin 5459.

"Inquisitorial powers are vested in the office of the prosecutor and in grand juries, and not in judges and courts." State ex rel. Spencer v. Marion Criminal Court, 214 Ind. 551, 15 N. E. (2d) 1020 (1938).

<sup>24</sup> 2 Rev. Stat. 1852; Burns 49-2802; Baldwin 5494.

<sup>25</sup> 2 Rev. Stat. 1852, Acts 1871, 1879 (Spec. Sess.), 1935; Burns, 1941 suppl., 49-2904; Baldwin, 1935 suppl., 5439.

<sup>26</sup> Acts 1927; Burns 9-2603 to 9-2610; Baldwin 15353 to 15355, 15357 to 15361.

<sup>27</sup> Rev. Stat. 1843, ch. 5, secs. 162, 164. Acts 1905, 1927; Burns 9-806, 9-901, 9-908; Baldwin 2102, 2123, 2131.

<sup>28</sup> Acts 1905; Burns 9-826; Baldwin 2122. Williams v. State, 188 Ind. 283, 123, N. E. 209 (1919).

The indictment is also signed by the prosecuting attorney.<sup>29</sup> The finding of an indictment must be kept secret until arrest is made.<sup>30</sup> He cannot be held liable for causing the grand jury to return an indictment, though he acted maliciously and without probable cause.<sup>31</sup>

The prosecuting attorney conducts all prosecutions for felonies and misdemeanors charge in indictments returned by the grand jury.<sup>32</sup> He may also prosecute on affidavit all criminal offenses under the State laws, other than treason and murder (which must be prosecuted on indictment).<sup>33</sup> It is the duty of the prosecuting attorney to superintend, on behalf of the county, all civil actions, and proceedings in which the county may

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<sup>29</sup> Acts 1905; Burns 9-901; Baldwin 2123. *Neal v. State*, 214 Ind. 328, 14 N. E. (2d) 590 (1938).

Endorsement of prosecuting attorney. 2 Rev. Stat. 1852, ch. 1, sec. 17, p. 363 (repealed by Acts 1881 (Spec. Sess.), ch. 36, sec. 323). *Taylor v. State*, 113 Ind. 471, 16 N. E. 183 (1888); *Robinson v. State*, 177 Ind. 263, 97 N. E. 929 (1912); *Hamer v. State*, 200 Ind. 403, 163 N. E. 91 (1928).

The statutory requirement that affidavits forming the basis of criminal prosecutions must be approved by the prosecuting attorney does not apply to indictments. *Peats v. State*, 213 Ind. 560, 12 N. E. (2d) 270 (1938).

<sup>30</sup> 2 Rev. Stat. 1852, ch. 1, sec. 71, p. 370 (repealed by Acts 1881 (Spec. Sess.), ch. 36, sec. 323). Acts 1881 (Spec. Sess.), ch. 46, sec. 103. Acts 1905; Burns 9-907; Baldwin 2130.

<sup>31</sup> *Griffith v. Slinkard*, 146 Ind. 117, 44 N. E. 1001 (1896).

<sup>32</sup> Rev. L. 1831, ch. 10, sec. 2. Rev. Stat. 1838 (first act), ch. 9, sec. 2. Rev. Stat. 1843, ch. 58, sec. 2. 2 Rev. Stat. 1852; Burns 49-2504; Baldwin 5460.

<sup>33</sup> Rev. Stat. 1843, ch. 58, sec. 2. 2 Rev. Stat. 1852, pt. 2, ch. 1, sec. 749, p. 198 (repealed by Acts 1865 (Spec. Sess.), ch. 57, sec. 1); pt. 3, ch. 1, secs. 19, 23, p. 363 (repealed by Acts 1881 (Spec. Sess.), ch. 36, sec. 323). Acts 1939; Burns, 1941 suppl., 4-3802; Baldwin, 1939 suppl., 3008-2. Acts 1905, 1927; Burns 9-908; Baldwin 2131.

Endorsement by prosecuting attorney. *Robinson v. State*, 177 Ind. 263, 97 N. E. 929 (1912); *McSwane v. State*, 200 Ind. 548, 165 N. E. 319 (1929).

A court cannot compel the prosecuting attorney to approve the affidavit. *State ex rel. Freed v. Martin Circuit Court*, 214 Ind. 152, 14 N. E. (2d) 910 (1938).

"Criminal prosecutions cannot be instituted by private individuals. They may be initiated by grand jury indictment. Formerly the only other method was on information. For this latter procedure the legislature substituted prosecutions by affidavit, approved by the prosecuting attorney." *Ibid.*

"In him is vested discretionary judicial power to investigate and determine who shall be prosecuted and who shall not be prosecuted. If he fails to exercise his official discretion honestly and impartially, the remedy is by impeachment," *State ex rel. Spencer v. Marion Criminal Court*, 214 Ind. 551, 15 N. E. (2d) 1020 (1938).



be interested or involved,<sup>34</sup> including suits to collect taxes and tax penalties<sup>35</sup> and suits against officers or on their bonds.<sup>36</sup>

The prosecuting attorney prosecutes suits on forfeited recognizances,<sup>37</sup> suits to recover funds of certain decedents' estates unlawfully retained by an administrator,<sup>38</sup> suits against insurance companies,<sup>39</sup> surety companies,<sup>40</sup> and railroad companies to recover statutory penalties,<sup>41</sup> suits to recover gambling losses,<sup>42</sup> injunction suits to prevent violation of laws concerning horse racing,<sup>43</sup> tenement houses,<sup>44</sup> houses of ill fame,<sup>45</sup> and restraint of trade,<sup>46</sup> and injunction suits to prevent persons from engaging in trades and

<sup>34</sup> Rev. L. 1831, ch. 6, sec. 27; ch. 10, sec. 2; ch. 90, secs. 21, 27. Rev. Stat. 1838, ch. 9 (first act), sec. 2. Rev. Stat. 1843, ch. 13, sec. 233; ch. 14, sec. 35; ch. 15, sec. 128; ch. 48, sec. 84; ch. 58, sec. 2. Acts 1865; Burns 28-312; Baldwin 5897. 2 Rev. Stat. 1852; Burns 49-2504; Baldwin 5460. Board of County Comrs. v. Templer, 34 Ind. 322 (1870).

<sup>35</sup> Rev. L. 1831, ch. 10, sec. 2. Rev. Stat. 1843, ch. 58, sec. 2. Acts 1881 (Spec. Sess.), ch. 96, sec. 222. Acts 1883, ch. 100, sec. 1. Acts 1927, ch. 176, sec. 4 (repealed by Acts 1937, ch. 133, sec. 16). Acts 1931; Burns 6-2415; Baldwin 15953. Acts 1935, 1937; Burns, 1941 suppl., 12-912; Baldwin, 1937 suppl., 3764-41. Acts 1937; Burns, 1941 suppl., 16-320; Baldwin, 1937 suppl., 3811-4. Acts 1919; Burns 64-608, 64-719, 64-723, 64-1319, 64-1518, 64-1519, 64-2208, 64-2505; Baldwin 15576, 15633, 15637, 15723, 15772, 15773, 15815, 15854. Acts 1932 (Spec. Sess.); Burns 64-1511; Baldwin 15754. Acts 1933; Burns 64-921; Baldwin 15919. Acts 1933, 1937, Burns, 1941 suppl., 64-2627, 64-2628; Baldwin, 1937 suppl., 16007, 16009. Board of County Comrs. v. Templer, 34 Ind. 322 (1870); La Plante v. State ex rel. Goodman, 152 Ind. 80, 52 N. E. 452 (1899).

<sup>36</sup> Rev. L. 1831, ch. 10, sec. 2; ch. 81, sec. 46; ch. 90, sec. 6. Rev. Stat. 1838, ch. 9 (first act), sec. 2. Rev. Stat. 1843, ch. 58, sec. 2. 1 Rev. Stat. 1852; Burns 44-204; Baldwin 5635. Acts 1883; Burns 49-142; Baldwin 13094. Acts 1895; Burns 49-1408; Baldwin 7583. Acts 1917; Burns 60-227; Baldwin 13878. Acts 1919; Burns 64-2507, 64-2508; Baldwin 15855, 15857. Wood v. State ex rel. Canady, 125 Ind. 219, 25 N. E. 190 (1890); Wood v. Board of County Comrs., 125 Ind. 270, 25 N. E. 188 (1890).

<sup>37</sup> Rev. L. 1824, ch. 57, sec. 1. 2 Rev. Stat. 1852; Burns 49-2504; Baldwin 5460. State v. Schloss, 92 Ind. 293 (1883).

<sup>38</sup> Acts 1881 (Spec. Sess.); Burns 6-1605; Baldwin 3237.

<sup>39</sup> Acts 1889; Burns 39-222; Baldwin 9710. Acts 1933; Burns 39-1117; Baldwin 9823. Acts 1893; Burns 39-2618; Baldwin 9888.

<sup>40</sup> Acts 1929; Burns 25-253; Baldwin 4957. Acts 1901; Burns 25-1218; Baldwin 9918.

<sup>41</sup> Acts 1873; Burns 49-1918; Baldwin 15094. Acts 1895; Burns 55-620; Baldwin 14119. Acts 1911; Burns 55-913; Baldwin 14159. Acts 1907; Burns 55-924; Baldwin 14193.

<sup>42</sup> 1 Rev. Stat. 1852 Burns, 10-2323; Baldwin 2806. Ervin v. State ex rel. Walley, 150 Ind. 332, 48 N. E. 249 (1897).

<sup>43</sup> Acts 1895; Burns 10-2711; Baldwin 9273.

<sup>44</sup> Acts 1913; Burns 20-579; Baldwin 9383.

<sup>45</sup> Acts 1915; Burns 9-2702; Baldwin 2586.

<sup>46</sup> Acts 1907; Burns 23-120; Baldwin 4786.



professions without licenses<sup>47</sup> or from engaging in business while delinquent in payment of gross income taxes.<sup>48</sup>

He acts for the State when a surety on a forfeited recognizance sues the principal on the theory of subrogation of the rights of the State. He prosecutes bastardy proceedings,<sup>50</sup> quo warranto proceedings,<sup>51</sup> and cases of surety of the peace.<sup>52</sup> He resists undefended divorce suits<sup>53</sup> and applications for change of names of persons; and protects the interests of all persons of unsound mind.<sup>54</sup> In lunacy proceedings he represents the person alleged to be insane.<sup>55</sup> He must be present at the hearing of proceedings to commit any person to a hospital operated by the trustees of Indiana University.<sup>56</sup> He appears in guardianship proceedings for aged persons, spendthrifts,<sup>57</sup> and habitual drunkards.<sup>58</sup> Formerly he represented apprenticed minors in suits concerning breach of the terms of their indentures<sup>59</sup> and prosecuted suits to recover the costs of cutting hedge fences when the work was done at county expense.<sup>60</sup>

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<sup>47</sup> Dentists. Acts 1913; Burns 63-513; Baldwin 5598.

Physicians and surgeons. Acts 1897; Burns 63-1311; Baldwin 10712.

<sup>48</sup> Acts 1933, 1937; Burns, 1941 suppl., 64-2613(c); Baldwin, 1937 suppl., 15993(c).

<sup>49</sup> Acts 1905; Burns 9-1045; Baldwin 2178.

<sup>50</sup> 2 Rev. Stat. 1852; Burns 3-622; Baldwin 687.

<sup>51</sup> Rev. L. 1831, ch. 62, sec. 3. Rev. Stat. 1843, ch. 48, secs. 46, 58. 2 Rev. Stat. 1852, ch. 1, secs. 749, 750, pp. 198, 199. Acts 1881 (Spec. Sess.), 1929; Burns 3-2001, 3-2002; Baldwin 1045, 1046. 1 Rev. Stat. 1852; Burns 39-134; Baldwin 9611. Acts 1897; Burns 49-821 to 49-823 49-831; Baldwin 13154 to 13156, 13164.

<sup>52</sup> Acts 1905; Burns 9-511; Baldwin 2059. *Davis v. State*, 38 Ind. 11, 37 N. E. 397 (1894).

<sup>53</sup> Rev. L. 1831, ch. 31, sec. 9. Rev. Stat. 1838, ch. 31, sec. 8. Rev. Stat. 1843, ch. 35, sec. 69. Acts 1873, 1913; Burns 3-1212 to 3-1215; Baldwin 916 to 919. *State v. Brinneman*, 120 Ind. 357, 22 N. E. 332 (1889); *Scott v. Scott*, 17 Ind. 309 (1861).

<sup>54</sup> Acts 1851-52, ch. 8, sec. 4. 2 Rev. Stat. 1852; Burns 49-2504; Baldwin 5460. *Martin v. Matsinger*, 130 Ind. 555, 30 N. E. 523 (1891).

<sup>55</sup> 2 Rev. Stat. 1852, Acts 1895; Burns 8-202; Baldwin 3460. *Martin v. Matsinger*, 130 Ind. 555, 30 N. E. 523 (1891); *Chase v. Chase*, 163 Ind. 178, 71 N. E. 485 (1904).

<sup>56</sup> Acts 1939; Burns, 1941 suppl., 28-5416; 28-5417; Baldwin, 1939 suppl., 14078-89b, 14078-89c.

<sup>57</sup> Acts 1911; Burns 8-301; Baldwin 3472. Acts 1919; Burns 8-302; Baldwin 3473.

<sup>58</sup> Acts 1867; Burns 8-401; Baldwin 3476.

<sup>59</sup> Acts 1827-28, ch. 46, sec. 2. Rev. L. 1831, ch. 69, sec. 7. These laws were repealed by Rev. Stat. 1843, ch. 35; ch. 59, sec. 4.

<sup>60</sup> Acts 1891, ch. 39, sec. 3. Acts 1895, ch. 33, sec. 3. This duty was abolished by Acts 1921, ch. 244, sec. 2.

On appeals from certain examination boards in license matters he represents the boards.<sup>61</sup> On appeals from orders of the chief inspector of the State Industrial Board, the prosecuting attorney appears as counsel for the State to sustain and defend such orders.<sup>62</sup> He assists the Indiana Attorney General, on his request, in representing the Indiana Public Service Commission in any suit to which that commission is a party, if any hearing or trial of such suit will be held in the county.<sup>63</sup>

The Attorney General of Indiana holds conferences with all prosecuting attorneys concerning the enforcement of the State laws.<sup>64</sup>

The prosecuting attorney administers oaths<sup>65</sup> and performs the duties of notaries public.<sup>66</sup> He collects docket fees for his services in criminal prosecutions, divorce cases, suits on forfeited recognizances, and other suits which he is required to prosecute or defend, and pays such fees over to the county treasurer. He makes monthly reports to the board of commissioners concerning his activities and the amount of fees collected by him and turned over to the treasurer.<sup>67</sup>

The State Board of Accounts has prescribed forms for an appearance record, fee book, and cashbook, to be kept by the prosecuting attorney, and a monthly report to be made by him.<sup>68</sup> For records of prosecuting attorney, see entry 26.

<sup>61</sup> State Board of Medical Registration and Examination. Acts 1897, 1899, 1901; Burns 63-1206; Baldwin 10707.

State Board of Dental Examiners. Acts 1913; Burns 63-520; Baldwin 5605.

Indiana Board of Pharmacy. Acts 1911; Burns 63-1120; Baldwin 13292.

State Veterinary Examining Board. Acts 1905; Burns 63-1705; Baldwin 3946.

State Board of Barber Examiners. Acts 1933; Burns 63-315; Baldwin 4070.

Miners' examination board. Acts 1925; Burns 46-1008; Baldwin 11073.

<sup>62</sup> Acts 1899; Burns 40-1019; Baldwin 10084.

<sup>63</sup> Acts 1913; Burns 54-106; Baldwin 13909. Acts 1917; Burns 60-228; Baldwin 13879.

<sup>64</sup> Acts 1931, 1933, 1937; Burns, 1941 suppl., 49-2601; Baldwin, 1937 suppl., 7547.

<sup>65</sup> Acts 1901; Burns 49-2506; Baldwin 5462. *Lenciania v. State*, 200 Ind. 528, 164 N. E. 271 (1929).

<sup>66</sup> Acts 1919; Burns 49-2507 to 49-2510; Baldwin 5463 to 5466.

<sup>67</sup> Rev. L. 1831, ch. 90, sec. 27. Acts 1861 (Spec. Sess.), ch. 25, sec. 4; ch. 28, sec. 1. Acts 1871, ch. 17, sec. 5. Acts 1873, ch. 48, sec. 16. Acts 1931; Burns 6-2436; Baldwin 15974. Acts 1905; Burns 9-706; Baldwin 2076. Acts 1929; Burns 25-253; Baldwin 4957. Acts 1919; Burns 49-2505, 64-608, 64-719, 64-723, 61-1519, 64-2508; Baldwin 5461, 15576, 15633, 15637, 15773, 15875. Acts 1875 (Spec. Sess.); Burns 49-2511; Baldwin 5468. Acts 1933, 1937; Burns, 1941 suppl., 49-2601; Baldwin, 1937 suppl., 7547. Acts 1933; Burns 49-2695; Baldwin 7550. Acts 1917; Burns 60-227; Baldwin 13878. Op. Atty. Gen. 1938, p. 238.

<sup>68</sup> Acts 1909; Burns 60-202; Baldwin 13855. Information obtained from E. P. Brennan, State Examiner, on May 18, 1939, by W. Davis Hamilton.

## XIV. DISTRICT ATTORNEY (1853-73)

## LEGAL STATUS

From 1853 until 1873 Fulton County had a district attorney<sup>1</sup> who was elected biennially by the voters of the judicial district of the court of common pleas.<sup>2</sup> The district was composed of the counties of Fulton and Pualaski from 1853 until October 9, 1860; the counties of Cass, Fulton, Kosciusko, Miami, and Wabash from October 9, 1860 until March 6, 1871; and the counties of Fulton, Kosciusko, and Wabash after March 6, 1871.<sup>3</sup> He was required to post bond in the amount of \$5,000, to be approved by the judge of the court of common pleas and filed in the office of the clerk of the circuit court.<sup>4</sup>

## FUNCTIONS AND RECORDS

The duties of the district attorney were similar to those of the prosecuting attorney, except that they extended only to the court of common pleas and the justice of the peace courts in the counties forming the judicial district of the court of common pleas. He prosecuted the pleas of the State in the court of common pleas and justices of the peace courts of such district;<sup>5</sup> conducted all prosecutions for felonies or misdemeanors and all suits on forfeited recognizances; resisted applications for changing names; superintended civil suits in which the county or its trust funds were interested or involved; and protected the interest of all persons of unsound mind.<sup>6</sup>

The office of district attorney was abolished in 1873 when the court of common pleas was abolished.<sup>7</sup>

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<sup>1</sup> Acts 1851-52 (Spec. Sess.), ch. 8, sec. 1. Acts 1873, ch. 29, sec. 79.

<sup>2</sup> 2 Rev. Stat. 1852, ch. 8, sec. 3, p. 16. Acts 1859, ch. 51, sec. 1. Acts 1861, ch. 28, sec. 1. Acts 1871, ch. 31, sec. 1.

<sup>3</sup> 2 Rev. Stat. 1852, ch. 8, sec. 3, p. 16. Acts 1859, ch. 51, sec. 1. Acts 1861, ch. 28, sec. 1.

<sup>4</sup> Acts 1851-52, (Spec. Sess.), ch. 8, sec. 2. 2 Rev. Stat. 1852, ch. 3, sec. 2, p. 385.

<sup>5</sup> Acts 1851-52 (Spec. Sess.), ch. 8, sec. 1. 2 Rev. Stat. 1852, ch. 3, sec. 1, p. 385.

State v. Sweetser, 14 Ind. 292 (1860).

<sup>6</sup> Acts 1851-52 (Spec. Sess.), ch. 8, sec. 4. 2 Rev. Stat. 1852, ch. 3, sec. 4, p. 386.

<sup>7</sup> Acts 1873, ch. 29, sec. 79.

## XV. COUNTY ASSESSOR

## LEGAL STATUS

The office of county assessor has existed in Fulton County ever since 1891 under the requirements of acts of 1891 and 1919. The assessor is elected for a 4-year term by the voters of the county, and holds office until his successor has been elected and qualified. He receives a certificate of election from the clerk of the circuit court and is not commissioned by the Governor. The assessor must be an elector of the county at the time of his election, must have been a resident freeholder thereof during the preceding 4 years, must reside within the county after his election, and must not hold any other lucrative office. He must post bond in the amount of \$5,000, to be approved by and filed with the auditor.<sup>1</sup> The assessor must take an oath that he will support the State and Federal Constitutions and will faithfully discharge the duties of his office.<sup>2</sup>

The assessor receives a regular salary of \$960 per year, plus \$2.50 for each day spent in conference with the Indiana Tax Board, together with actual railroad fare to and from the place of holding such conferences.<sup>3</sup> For his services as appraiser of decedents' estates for inheritance tax purposes, the circuit court allows him compensation between \$1 and \$50 for each estate appraised, based on the value thereof.<sup>4</sup> He is entitled to reimbursement for expenses when temporarily working outside the county under direction of the board of commissioners.<sup>5</sup> He is not permitted to retain, as compensation for himself, any fees collected by him, other than as stated above.<sup>6</sup>

For sufficient legal causes the assessor may be removed from office by the circuit court, after trial by jury on an accusation presented by the grand jury or verified by the oath of any person.<sup>7</sup> If the assessor be convicted of a felony the

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<sup>1</sup> Const. 1851, art. 2, sec. 9; art. 6, secs. 4, 6; art. 15, secs. 3, 6. 1 Rev. Stat. 1852; Burns 49-201, 49-202; Baldwin, 13095, 13096. Acts 1919, 1921; Burns 64-1101; Baldwin 15696.

<sup>2</sup> Const. 1816, art. 11, sec. 1. Const. 1851, art. 15, sec. 4. 1 Rev. Stat. 1852; Burns 49-101; Baldwin 13054. Acts 1919, 1921; Burns 64-1101; Baldwin 15696.

<sup>3</sup> Acts 1933; Burns 49-1004, 49-1011; Baldwin 7534, 7541. Acts 1919; Burns 64-1103; Baldwin 15698.

<sup>4</sup> Acts 1931, 1933, 1939; Burns, 1941 suppl., 6-2408; Baldwin, 1939 suppl., 15946.

<sup>5</sup> Acts 1919, 1921; Burns 64-1101; Baldwin 15696.

<sup>6</sup> Acts 1933; Burns 49-1005; Baldwin 7535.

<sup>7</sup> Const. 1851, art. 2, secs. 6, 7; art. 6, sec. 8. Acts 1897, 1899; Burns 49-821 to 49-834, 49-836; Baldwin 13154 to 13166, 13050, 13168. Acts 1875; Burns 49-837; Baldwin 13052.



judgment of conviction must declare his office vacant.<sup>8</sup> For incompetency, neglect of duty, or misconduct in office, the assessor may be removed from office by the Indiana Tax Board after a hearing by that board. On appeal to the circuit court he may have a trial de novo on the charges sustained by the Indiana Tax Board.<sup>9</sup>

Any vacancy in the office of assessor is filled through appointment by the board of commissioners. At the next biennial general election (held on the first Tuesday after the first Monday in November in the even-numbered years), an assessor is elected for the remainder of the term in which the vacancy occurred. The person appointed or elected to fill a vacancy must take oath and post bond, as was required of his predecessor; and he holds office until his successor is elected and qualified.<sup>10</sup>

Subject to the approval of the board of commissioners, the assessor may appoint one or more deputies to serve no more than 30 days in any calendar year. Each deputy receives \$4 per day as compensation. They have the same qualifications, powers, and duties as the assessor; are subject to his control and direction; and must take the oath of office required of the assessor.<sup>11</sup> With the approval of the board of commissioners, the assessor may also employ clerical assistants who shall each receive compensation not exceeding \$5 per day, pursuant to appropriation by the county council.<sup>12</sup>

From the organization of Fulton County in 1836<sup>13</sup> until 1841 the board doing county business annually appointed assessors (often called listers) to list all property subject to taxation and to determine the value thereof (when the tax was based on value).<sup>14</sup> Under an act of 1831 any person refusing to accept his appointment as assessor was subject to a penalty

<sup>8</sup> Acts 1897, 1899; Burns 49-834; Baldwin 13050.

<sup>9</sup> Acts 1881 (Spec. Sess.); Burns 4-303; Baldwin 1397. Acts 1919, 1921; Burns 64-1101; Baldwin 15696.

<sup>10</sup> Const. 1851, art. 6, sec. 9. Rev. Stat. 1843, ch. 7, sec. 61. Acts 1881 (Spec. Sess.); Burns 29-701; Baldwin 7081. 1 Rev. Stat. 1852; Burns 49-405, 49-408, 49-409; Baldwin 13104, 13106, 13107. Acts 1919, 1921; Burns 64-1101; Baldwin 15696. *Douglass v. State ex rel. Wright*, 31 Ind. 429 (1869). Op. Atty. Gen. 1936, p. 9. Information obtained from Omer Stokes Jackson, Attorney General of Indiana, on July 11, 1939, by W. Davis Hamilton.

<sup>11</sup> 1 Rev. Stat. 1852; Burns 49-101; Baldwin 13054. Acts 1919; Burns 64-1102; Baldwin 15698.

<sup>12</sup> Acts 1933; Burns 49-1011; Baldwin 7541.

<sup>13</sup> Fulton Organization Acts. Acts 1834-35 (general), ch. 25, sec. 8. Acts 1835-36 (general), ch. 16, sec. 1.

<sup>14</sup> Rev. L. 1831, ch. 81, secs. 3-5. Rev. Stat. 1838, ch. 21, sec. 12.



of \$25.<sup>15</sup> An act of 1841 provided for the election of a county assessor for a 2-year term by the voters of the county.<sup>16</sup> The office of county assessor was abolished in 1853, and the duties thereof were transferred to township assessors elected for 2-year terms.<sup>17</sup> From 1841 to 1872 real property was valued by appraisers appointed, from time to time as needed, by the board of commissioners.<sup>18</sup> The elective office of county assessor (2-year term) replaced that of appraiser in 1872;<sup>19</sup> but in 1875 the office was abolished, and the duties were transferred to township assessors elected for 2-year terms.<sup>20</sup> An act of March 6, 1891 reestablished the office of county assessor. Under this law the assessor was elected for a 4-year term, and was not eligible for reelection until 4 years after the expiration of the term for which he was elected. He was required to be a resident freeholder and householder of the county not less than 5 years before the date of his election.<sup>21</sup> The act of 1891 was superseded by the act of 1919 mentioned in the first paragraph herein. In 1933 the office of township assessor was abolished in each township having a population not exceeding 5,000 (all townships except Rochester) and the duties of the office were transferred to the township trustee.<sup>22</sup> Reference hereinafter to township assessors includes township trustees performing the duties prescribed by statutes for township assessors.

#### FUNCTIONS AND RECORDS

The duties of the county assessor are to examine tax duplicates and other records and papers in the office of the auditor, treasurer, recorder, clerk, sheriff, and surveyor, together with the returns of the township assessors; to discover, list, and assess (after notice to the owner) all omitted property of every kind, entering his valuations in a separate column on the township assessors' books; to receive lists of registrations of motor vehicles and trailers from the State Motor Vehicle Commissioner, and to check, verify, and

<sup>15</sup> Rev. L. 1831, ch. 81, sec. 4.

<sup>16</sup> Acts 1840-41 (general), ch. 3, sec. 1.

<sup>17</sup> 1 Rev. Stat. 1852, ch. 6, sec. 64; ch. 92, sec. 1.

<sup>18</sup> Acts 1840-41 (general), ch. 1, secs. 1-12, 20. Acts 1850-51 (general), ch. 5, sec. 1. 1

Rev. Stat. 1852, ch. 6, secs. 44, 45. Acts 1858 (Spec. Sess.), ch. 2, sec. 1.

<sup>19</sup> Acts 1872 (Spec. Sess.), ch. 37, secs. 107, 276.

<sup>20</sup> Acts 1875, ch. 97, secs. 2, 7, 9.

<sup>21</sup> Acts 1891, ch. 99, sec. 112.

<sup>22</sup> Acts 1933; Burns 64-1031; Baldwin 15664.

ascertain that all motor vehicles and trailers owned by the listed registrants residing in the county are on the assessment lists of the county; to advise and instruct the township assessors; to report to the Indiana Tax Board any incompetency or neglect of duty on the part of township assessors;<sup>23</sup> and determine the value of taxable intangibles.<sup>24</sup> Under appointments by the circuit court, he serves as appraiser of estates in the administration of the inheritance tax law.<sup>25</sup> He appraises school property in accordance with laws concerning transfer of pupils from one school to another.<sup>26</sup> He is a member and president of the county board of review.<sup>27</sup> His work is under the direction of the Indiana Tax Board.<sup>28</sup> Formerly the county assessor made out the assessment rolls (now made by the auditor),<sup>29</sup> took a census of deaf mutes in the county (now done by township assessors),<sup>30</sup> and kept a book showing the names of all blind, dumb, deaf, or insane persons in the county.<sup>31</sup>

Assessments by the county assessor under the property tax laws are subject to review by the county board of review. Such assessments are also reviewable by the circuit court on the question of taxability of the property.<sup>32</sup>

The assessor must return to the auditor, on or before the first Monday after July 4 each year, all township assessors'

<sup>23</sup> Acts 1927, 1937; Burns, 1941 suppl., 47-129; Baldwin, 1937 suppl., 11145. Acts 1919; Burns 54-1102; Baldwin 15698. Acts 1919, 1927; Burns 64-2103; Baldwin 15804. *Deniston v. Terry*, 141 Ind. 677, 41 N. E. 143 (1895); *McConnell v. Hampton*, 164 Ind. 547, 73 N. E. 1092 (1905).

*Thirty-ninth Annual Conference of the Indiana Tax Board*, pp. 22-30, 53-139.

<sup>24</sup> Acts 1933, 1935; Burns, 1941 suppl., 64-905; Baldwin, 1935 suppl., 15903. *Thirty-ninth Annual Conference of the Indiana Tax Board*, pp. 39-53.

<sup>25</sup> Acts 1881 (Spec. Sess.); Burns 4-303; Baldwin 1397. Acts 1931, 1933, 1939; Burns, 1941 suppl., 6-2408; Baldwin, 1939 suppl., 15946. *Thirty-ninth Annual Conference of the Indiana Tax Board*, pp. 32-39.

<sup>26</sup> Acts 1901, 1909, 1915, 1921; Burns 23-3704; Baldwin 6588.

<sup>27</sup> Acts 1919, 1920 (Spec. Sess.); Burns 64-1201; Baldwin 15700.

<sup>28</sup> Acts 1919, 1921; Burns 64-1101; Baldwin 15696.

<sup>29</sup> Rev. L. 1824, ch. 86, secs. 4, 5, 7. Acts 1838-39 (general), ch. 14, 14, 15. Rev. Stat. 1843, ch. 12, sec. 28. Acts 1919; Burns 64-1403, 64-1408; Baldwin 15740, 15745.

<sup>30</sup> Acts 1838-39 (general), ch. sec. 1. Acts 1849-50 (general), ch. 17, sec. 4. Acts 1859, ch. 7, secs. 1, 2. Acts 1891, ch. 99, sec. 54. Acts 1919; Burns 64-607; Baldwin 15575.

<sup>31</sup> Acts 1849-50 (general), ch. 17, secs. 2, 3.

<sup>32</sup> Acts 1919, 1920 (Spec. Sess.); Burns 64-1201, 64-1205; Baldwin 15700, 15704, Acts 1919, 1927; Burns 64-2103; Baldwin 15804. Information obtained from Philip Zoercher, chairman of the Indiana Tax Board, on May 18, 1939, by W. Davis Hamilton.

books, returns, lists, schedules, maps, and other papers received by him from the auditor, together with such additional lists, assessments, books, and papers as he has made thereto.<sup>33</sup> He is not required to keep any records permanently.<sup>34</sup>

178. INHERITANCE TAX PAPERS, 1921-. 10 f.b.

Schedules of all property and affidavits of executors, or administrators, trustees or heirs for inheritance tax appraisements, showing dates of schedule, decedent's death, will admitted to probate, and letters of administration granted; names of decedent and affiant; location, description, and assessed valuation of real property; par and market valuation of intangibles; market valuation of chattels; interest in business or copartnerships, trusts, and all other property; recapitulation of all taxables; itemised list of claims, debts; and expenses; and amount of deduction claimed. Arr. chron. by date of schedule. No index. Hdw. 14 x 10 x 4. Assr. off.

179. RECORD OF UNCANCELLED MORTGAGES [Foreign], Aug. 17, 1886-May 1, 1914. 1 vol. (1).

Transcripts of uncanceled foreign real estate mortgages, showing information as in entry 184. Arr. chron. by date of mortgage. Indexed alph. by name of mortgagor. Hdw. 400 pp. 18½ x 13 x 1½. Attic strg. room.

180. RECORD OF UNCANCELLED MORTGAGES, Feb. 20, 1906-March 1, 1923. 4 vols. (1-4).

Transcripts of uncanceled real estate mortgages, showing date and amount of mortgage; names and addresses of mortgagor and mortgagee; names of township, guardian, and administrator; assignments; tax title certificate; and volume and page reference to recording. Arr. chron. by date of mortgage. Indexed alph. by name of mortgagor. Hdw. 200 pp. 18 x 13 x 2. Attic strg. room.

181. DEPUTY ASSESSOR'S APPOINTMENT, 1921-. 4 f. b.

Certificates of appointments of deputy assessors, showing dates of appointment and filing, and names of appointee and township. Arr. chron. by date of appointment. No index. Hdw. 14 x 10 x 4. Assr. off.

## XVI. COUNTY BOARD OF REVIEW

### EVOLUTION AND STRUCTURAL ORGANIZATION

A county board of review has existed in Fulton County

<sup>33</sup> Acts 1939; Burns 64-1102; Baldwin 15698.

<sup>34</sup> Information obtained from E. P. Brennan, State Examiner, on May 18, 1939, by W. Davis Hamilton.

ever since 1891 under the requirements of acts of 1891,<sup>1</sup> 1895,<sup>2</sup> and 1919. The present board is composed of the county assessor, auditor, and treasurer, and two freeholders of opposite political parties, appointed annually by the judge of the circuit court.<sup>3</sup> An appointed member must be an elector of the county at the time of his appointment, must have been an inhabitant thereof during the preceding year, and must reside within the county after his appointment.<sup>4</sup> Every member must take an oath that he will support the State and Federal Constitutions and will faithfully discharge his duties as a member of the board of review and will assess, review, and equalize the assessment of all property of the county according to the true cash value of such property.<sup>5</sup> The assessor and auditor are respectively the president and secretary of the county board of review.

The appointed members of the county board of review receive, as compensation, \$5 for each day actually served as members of the board. Allowance therefor is made by the board of commissioners on claims supported by certificates of the assessor. The assessor, auditor, and treasurer receive no compensation, in addition to their regular salaries, for their services on the board of review. Before 1933 the auditor and treasurer received, in addition to their regular salaries, \$5 per day for each day actually served as members of the board.<sup>7</sup>

For sufficient legal causes any member of the county board of review may be removed by the circuit court, after trial by jury on an accusation presented by the grand jury or verified by the oath of any person.<sup>8</sup> If any member is convicted of a felony the judgment of conviction must declare his office vacant.<sup>9</sup> The judge of the circuit court fills vac-

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<sup>1</sup> Acts 1891, ch. 99, sec. 114.

<sup>2</sup> Acts 1895, ch. 36, sec. 2.

<sup>3</sup> Acts 1919, 1920 (Spec. Sess.); Burns 64-1201; Baldwin 15700.

<sup>4</sup> Const. 1851, art. 6, secs. 4, 6.

<sup>5</sup> *Ibid.*, art. 15, sec. 4. 1 Rev. Stat. 1852; Burns 49-101; Baldwin 13054. Acts 1919, 1920. (Spec. Sess.); Burns 64-1201; Baldwin 15700.

<sup>6</sup> Acts 1919, 1920 (Spec. Sess.); Burns 64-1201; Baldwin 15700.

<sup>7</sup> Acts 1933; Burns 49-1001, 49-1004; Baldwin 7531, 7534. Acts 1919, 1920 (Spec. Sess.); Burns 64-1201, 64-1204; Baldwin 15700, 15703. Op. Atty. Gen. 1934, p. 313; 1936, p. 130.

<sup>8</sup> Const. 1851, art. 2, secs. 6, 7; art. 6, sec. 8. Acts 1897, 1899; Burns 49-821 to 49-834, 49-836; Baldwin 13154 to 13166, 13050, 13168. Acts 1875; Burns 49-837; Baldwin 13052.

<sup>9</sup> Acts 1897, 1899; Burns 49-834; Baldwin 13050.



ancies as to members appointed by him.<sup>10</sup> Any vacancy in the office of the other members is filled by replacement in the office of the county assessor, auditor, or treasurer, as the case may be, the membership in the board of review being an incident to such office.<sup>11</sup>

Before 1919 duties analogous to those of the present board of review were performed by the following officers and boards: From the organization of Fulton County in 1836<sup>12</sup> through 1838, clerk of the circuit court and assessors or listers;<sup>13</sup> 1839 through 1840, board of commissioners, clerk of the circuit court, and assessor listers;<sup>14</sup> 1841, board of commissioners, county assessor, and auditor (personal property only); 1841, board of equalization, composed of the board of commissioners, auditor, and appraiser (real estate only);<sup>15</sup> 1842 through 1852, board of equalization, composed of the board of commissioners, county assessor, and auditor;<sup>16</sup> 1853 through 1871, board of equalization, composed of the board of commissioners, auditor, and assessors for personal property,<sup>17</sup> and composed of the board of commissioners, auditor, and appraiser or appraisers for real estate;<sup>18</sup> 1872 through 1880, board of equalization, composed of the board of commissioners, county assessor, and auditor;<sup>19</sup> 1881 through 1890, board of equalization, consisting of the board of commissioners and four freeholders (from different parts of the county) appointed by the circuit judge;<sup>20</sup> 1891 through 1894, board of review, composed of the county assessor, auditor, and treasurer;<sup>21</sup> and 1895 through 1918, board of review, composed, as at present, of the county assessor, auditor, treasurer, and two freeholders appointed by the circuit judge.<sup>22</sup>

<sup>10</sup> Acts 1919, 1920 (Spec. Sess.); Burns 64-1201; Baldwin 15700.

<sup>11</sup> See the essays entitled "Auditor," "County Assessor," and "Treasurer."

<sup>12</sup> Fulton Organization Acts. Acts 1834-35 (general), ch. 25, sec. 8. Acts 1835-36 (general), ch. 16, sec. 1.

<sup>13</sup> Rev. L. 1824, ch. 86, sec. 7. Acts 1825, ch. 47, sec. 3. Rev. L. 1831, ch. 81, secs. 5, 7, 8.

<sup>14</sup> Acts 1838-39 (general), ch. 14, secs. 5, 14, 15.

<sup>15</sup> *Ibid.* Acts 1840-41 (general), ch. 1, secs. 9, 13.

<sup>16</sup> Acts 1840-41 (general), ch. 1, sec. 18.

<sup>17</sup> 1 Rev Stat. 1852, ch. 6, sec. 91. Acts 1867, ch. 110, sec. 2.

The Revised Statutes of 1852 became effective on May 6, 1853. Jones v. Cavins, 4 Ind. 305 (1853).

<sup>18</sup> 1 Rev. Stat. 1852, ch. 35, sec. 2. Jones v. Cavins, 4 Ind. 305 (1853).

<sup>19</sup> Acts 1872 (Spec. Sess.), ch. 37, secs. 150, 277, 278.

<sup>20</sup> Acts 1881 (Spec. Sess.); ch. 96, sec. 129.

<sup>21</sup> Acts 1891, ch. 99, sec. 114.

<sup>22</sup> Acts 1895, ch. 36, sec. 2.



## FUNCTIONS AND RECORDS

The county board of review hears complaints of taxpayers concerning new assessments (except those made by the Indiana Tax Board), reviews and corrects such assessments, equalizes new property valuations, and assesses omitted property. The tax list prepared by the county assessor and township assessors stands except in the particulars where it is changed by the board. The board has power to set aside the new assessments for the whole county or a whole taxing unit therein and to order another assessment by the county assessor and township assessors under instructions from the board.<sup>23</sup> The action of the board is subject to review by the Indiana Tax Board.<sup>24</sup> On questions of law concerning valuation of property, the decisions of the board of review and of the Indiana Tax Board may be reviewed by the circuit court; and appeal on law and facts may be taken from the board of review to the circuit court on the question of the property's taxability.<sup>25</sup>

The board of review values and assesses the franchises, privileges, and capital stock of certain classes of corporations, and reviews the assessments of the tangible property of such corporations. Reports filed by these corporations with the county assessor are examined by the board. From the findings of the board the auditor computes the corporation taxes to be placed on the tax duplicate. This action of the county board is reviewable by the Indiana Tax Board.<sup>26</sup>

Sworn written statements to obtain tax deductions on mortgaged realty and to obtain tax exemptions of realty and personalty used for educational, charitable, religious, fraternal, literary, or scientific purposes are filed with the auditor each year and are presented by him to the board of review for decision thereon. The action of the board of review is reviewable by the Indiana Tax Board.<sup>27</sup>

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<sup>23</sup> Acts 1933; Burns 64-1031; Baldwin 15664. Acts 1919, 1920 (Spec. Sess.); Burns 64-1201, 64-1205; Baldwin 15700, 15704. *Thirty-ninth Annual Conference of Indiana Tax Board*, pp. 54-57.

<sup>24</sup> Acts 1919, 1935; Burns, 1941 suppl., 64-1321; Baldwin, 1935 suppl., 15725. Indiana Tax Board, *Tax Rule 6*.

<sup>25</sup> Acts 1927; Burns 64-1020; Baldwin 15686. Acts 1919, 1927; Burns 64-2103; Baldwin 15804. Information obtained from Philip Zoercher, chairman of the Indiana Tax Board, on May 18, 1939, by W. Davis Hamilton.

<sup>26</sup> Acts 1919, 1921; Burns 64-723, 64-724; Baldwin 15637, 15638.

<sup>27</sup> Acts 1919, 1939; Burns, 1941 suppl., 64-209 to 64-211; Baldwin, 1933 suppl., 15565 to 15567. Acts 1937; Burns, 1941 suppl., 64-213; Baldwin, 1937 suppl., 15518-2.

No application for exemption is required as to property of the State of Indiana, the United States, municipal corporations,

The board of review, after giving 2 weeks' notice, holds an annual meeting beginning on the first Monday of June;<sup>28</sup> and the session can last 38 days in any year in which the Indiana Tax Board orders reassessment of any real estate in the county, and 28 days in other years. Additional time for completing this board's duties may be allowed by the Indiana Tax Board.<sup>29</sup> A majority of all the members of the board of review constitutes a quorum for the transaction of business, and such majority must concur in decisions of the board. The sheriff serves all of the board's process not served by the assessor, and obeys all orders of the board. The auditor, as secretary, is required to keep full and accurate minutes of the proceedings of the board.<sup>30</sup> The county assessor, as president, keeps an attendance record; and, at the close of the session, certifies to the board of commissioners the number of days actually served by each member.<sup>31</sup>

182. COUNTY BOARD OF REVIEW, 1890-. 3 vols.

Minutes of meetings of board of review, showing dates of meetings, names of members present, subjects discussed, and action taken. Arr. chron. by date of meeting. No index. Hdw. 400 pp. 16 x 11 x 3. Aud. off.

183. TAX LEVY APPEALS, 1932-. 2 f. b.

Transcripts of appeals to State Board of Tax Commissioners from decisions by county board of review, showing dates of appeal and filing, names of appellant, and transcript of proceedings on appeal. Arr. chron. by date of filing. No index. Hdw. 10 x 4 x 14. Aud. off.

## XVII. COUNTY BOARD OF TAX ADJUSTMENT

### EVOLUTION AND STRUCTURAL ORGANIZATION

The county board of tax adjustment has existed in Fulton County ever since 1932 under the requirements of acts of 1932,<sup>1</sup>

and political subdivisions of the State, nor for property owned and used by churches, State accredited schools, hospitals, and college fraternities and sororities. Acts 1937; Burns, 1941 suppl., 64-215; Baldwin, 1937 suppl., 15518-4.

<sup>28</sup> Acts 1919, 1920 (Spec. Sess.); Burns 64-1201; Baldwin 15700.

<sup>29</sup> Acts 1919; Burns 64-1205; Baldwin 15704. Indiana Tax Board, *Tax Rule 6*.

<sup>30</sup> Acts 1919, 1920 (Spec. Sess.); Burns 64-1201; Baldwin 15700.

<sup>31</sup> Acts 1919; Burns 64-1204; Baldwin 15703.

<sup>1</sup> Acts 1932 (Spec. Sess.), ch. 10, sec. 4.

1933,<sup>2</sup> and 1937. The board consists of seven members, chosen as follows: One member of the county council selected by the council; the mayor of the city of Rochester or any public official of the city appointed by him; one member of the county board of education, selected by that board; and four persons who are citizens and freeholders of the county, appointed before April 15 each year by the judge of the circuit court to hold office until April 15 of the following year. No more than four of the seven members of the board of tax adjustment may be members of the same political party. Each member must be an elector of the county at the time of his appointment; must have been an inhabitant thereof during the preceding year; must reside within the county after his appointment; and must take an oath to support the State and Federal Constitutions and faithfully discharge the duties of his office.<sup>3</sup>

The county board of tax adjustment elects a chairman and a vice chairman from among its members; and the auditor acts as clerk, but has no vote in its proceedings. The members of the board serve without compensation. The board may employ one of the examiners of the State Board of Accounts to assist in the duties of the county board of tax adjustment; and the auditor pays from county funds the expenses in connection with such employment.<sup>4</sup>

For sufficient legal causes any member of the county board of tax adjustment may be removed from office by the circuit court, after trial by jury on an accusation presented by the grand jury or verified by the oath of any person.<sup>5</sup> If any member be convicted of a felony, the judgment of conviction must declare his office vacant.<sup>6</sup> A vacancy in the office of any member is filled in the manner provided by law for filling such office originally.<sup>7</sup>

Before 1932 no county officer or board performed duties analogous to those of the county board of tax adjustment, except that in 1920 the county's tax levies were reviewable by the county council.<sup>8</sup> Ever since 1919, with the exception of

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<sup>2</sup> Acts 1933, ch. 237, sec. 4.

<sup>3</sup> Const. 1851, art. 6, secs. 4, 6; art. 15, sec. 4. 1 Rev. Stat. 1852; Burns 49-101; Baldwin 13054. Acts 1937; Burns, 1941 suppl., 64-310; Baldwin, 1937 suppl., 15897-4.

<sup>4</sup> Acts 1937; Burns, 1941 suppl., 64-310; Baldwin, 1937 suppl., 15897-4.

<sup>5</sup> Const. 1851, art. 2, secs. 6, 7; art. 6, sec. 8. Acts 1897, 1899; Burns 49-821 to 49-834, 49-836; Baldwin 13154 to 13166, 13050, 13168. Acts 1875; Burns 49-837; Baldwin 13052.

<sup>6</sup> Acts 1897, 1899; Burns 49-834; Baldwin 13050.

<sup>7</sup> Acts 1937; Burns, 1941 suppl., 64-310; Baldwin, 1937 suppl., 15897-4.

<sup>8</sup> Acts 1920 (Spec. Sess.), ch. 49, sec. 3. Information obtained from Philip Zoercher, chairman of the Indiana Tax Board, on May 22, 1939, by W. Davis Hamilton.

1920, the budgets, tax levies, and tax rates of the county and the taxing units therein have been reviewable directly by the Indiana Tax Board in certain instances.<sup>9</sup> Before 1919 the sole remedy of a taxpayer to obtain a review of such budgets, tax levies, or tax rates was to apply to a court for an injunction.<sup>10</sup>

Under the act of 1932, mentioned in the first paragraph of this essay, the board of tax adjustment was composed of seven members, namely, the auditor, three members of the county council (selected annually by the council), and three members appointed annually by the judge of the circuit court.<sup>11</sup> Under the act of 1933, the board was composed of seven members appointed for 1-year terms. One member was appointed by the county council from the members of the council. The other six members were appointed by the judge of the circuit court, as follows: A township trustee; the mayor of a city or the president of the board of trustees of a town; a member of the school board of a city or town; and three resident freeholders of the county at large, not holding any other public office by virtue of an election held or appointment made within the county, and not closely related to the executive head of any municipal corporation of which the board of tax adjustment had jurisdiction.<sup>12</sup>

#### FUNCTIONS AND RECORDS

The board of tax adjustment reviews budgets, tax levies, and tax rates adopted by the county council for the county and also those adopted by the several taxing units within the county.<sup>13</sup> The action of the board of tax adjustment is subject to review by the Indiana Tax Board.<sup>14</sup>

The board of tax adjustment meets on the second Monday in September each year, and from day to day thereafter as its

<sup>9</sup> Acts 1919, 1920 (Spec. Sess.); Burns 64-1303, 64-1329, 64-1330; Baldwin 15707, 15733, 15734. Acts 1919, 1920 (Spec. Sess.), 1921, 1927, 1935; Burns, 1941 suppl., 64-1331; Baldwin, 1935 suppl., 15735.

<sup>10</sup> Toledo & W. R. Co. v. Lafayette, 22 Ind. 262 (1864); First Nat. Bank v. Greger, 157 Ind. 479, 62 N. E. 21 (1901). Information obtained from Philip Zoercher, chairman of the Indiana Tax Board, on May 22, 1939, by W. Davis Hamilton.

<sup>11</sup> Acts 1932 (Spec. Sess.), ch. 10, sec. 4.

<sup>12</sup> Acts 1933, ch. 237, sec. 4.

<sup>13</sup> Acts 1899; Burns 26-515; Baldwin 5379. Acts 1937; Burns, 1941 suppl., 64-310, 64-311; Baldwin, 1937 suppl., 115897-4, 15897-5.

<sup>14</sup> Acts 1937; Burns, 1941 suppl., 64-311, 64-314; Baldwin, 1937 suppl., 15897-5, 15897-8.



business requires, and must complete its duties on or before October 1.<sup>15</sup> The auditor, as clerk, keeps a complete record of the proceedings of the board.<sup>16</sup>

184. TRANSCRIPTS OF THE MINUTES OF THE FULTON COUNTY TAX ADJUSTMENT BOARD, 1938-. 5 vols.

Minutes of meetings of county board of tax adjustment, showing date and place of meeting, names of members present, nature of business discussed, and action taken. Arr. chron. by date of meeting. No index. Typed. 100 pp. 9 x 15 x 1. Aud off.

## XVIII. BOARD OF FINANCE

### EVOLUTION AND STRUCTURAL ORGANIZATION

The board of finance has existed in Fulton County ever since 1907 under the requirements of acts of 1907, 1935, and 1937. Ever since 1907 the board has been composed of the county commissioners of Fulton County, with the county auditor serving as secretary.<sup>1</sup>

The county auditor and the county commissioners receive no compensation for their services as secretary and members, respectively, of the board of finance. From 1907 until 1932, and in 1935 and 1936, the auditor received \$50 per year.<sup>2</sup>

Before 1907 no county officer or board performed duties analogous to those of the board of finance.<sup>3</sup>

### FUNCTIONS AND RECORDS

The board of finance has supervision of all public funds of the county and of the safekeeping and deposit thereof.<sup>4</sup> After

<sup>15</sup> Acts 1937; Burns, 1941 suppl., 64-310, 64-311; Baldwin, 1937 suppl., 15897-4, 15897-5.

<sup>16</sup> Acts 1937; Burns, 1941 suppl., 64-310; Baldwin, 1937 suppl., 15897-4.

<sup>1</sup> Acts 1907, ch. 222, sec. 6 (repealed by Acts 1935, ch. 70, sec. 42). Acts 1935, ch. 70, secs. 7, 43 (repealed by Acts 1937, ch. 3, sec. 42). Acts 1937; Burns, 1941 suppl., 61-629, 61-663; Baldwin, 1937 suppl., 13844-50, 13844-84. For laws concerning eligibility, oath, and removal of these officers, see the essays entitled "Auditor" and "Board of Commissioners."

<sup>2</sup> Acts 1907, ch. 222, sec. 7 (repealed by Acts 1935, ch. 70, sec. 42). Acts 1935, ch. 70, sec. 7 (repealed by Acts 1937, ch. 3, sec. 42). Acts 1933; Burns 49-1001, 49-1004; Baldwin 7531, 7534. Acts 1937; Burns, 1941 suppl., 61-629; Baldwin, 1937 suppl., 13844-50. Op. Atty. Gen. 1934, p. 313; 1936, p. 130.

<sup>3</sup> Information obtained from E. P. Brennan, State Examiner, on May 31, 1939, by W. Davis Hamilton.

<sup>4</sup> Acts 1937; Burns, 1941 suppl., 61-629; Baldwin, 1937 suppl., 13844-50.

Defunct depositories. Op. Atty. Gen. 1939, p. 247.



inviting proposals from each bank and trust company in the county, the board designates depositories for county funds,<sup>5</sup> and for all fees and funds received by the clerk of the circuit court by virtue of his office.<sup>6</sup> It may revoke the commission of any depository at any time.<sup>7</sup> In the name of "The Board of Finance of Fulton County," the board may sue and be sued in any action in any court of competent jurisdiction.<sup>8</sup>

The board of finance holds an annual meeting on the third Monday in January, at which it elects its president;<sup>9</sup> and holds a biennial meeting on the third Monday in February, in the odd-numbered years, at which it considers depository proposals and designates depositories for the ensuing 2-year period.<sup>10</sup> The board holds sessions whenever necessary to discharge its duties and accomplish the purposes of the laws governing it. A majority of the members constitutes a quorum for the transaction of business. All meetings are open to the public.<sup>11</sup>

The board keeps as permanent records the depositories' monthly statements of deposits.<sup>12</sup> The auditor, as secretary of the board of finance,<sup>13</sup> keeps a record of its proceedings. All records of the board are subject to public inspection.<sup>14</sup>

185. [BOARD OF FINANCE], 1907-. In Commissioners Record, entry 2.

Minutes of meetings of board of finance, showing date of meeting, names of members present, subjects discussed, and action taken.

186. DEPOSITORY PROPOSALS AND BONDS, 1907-36. 2 f. b. Original proposals and bonds posted by depositories of county funds, showing date and conditions of proposals; date, amount, and conditions of bond; and names and addresses of depository and sureties. Arr. chron. by dates of proposal and bond. No index. Hdw. 10½ x 4½ x 14. Aud. vt.

<sup>5</sup> Acts 1937; Burns, 1941 suppl., 61-634 to 61-636; Baldwin, 1937 suppl., 13844-55 to 13844-57.

<sup>6</sup> Acts 1937; Burns, 1941 suppl., 61-673; Baldwin, 1937 suppl., 1438-1.

<sup>7</sup> Acts 1937; Burns, 1941 suppl., 61-636; Baldwin, 1937 suppl., 13844-57.

<sup>8</sup> Acts 1937; Burns, 1941 suppl., 61-633; Baldwin, 1937 suppl., 13844-54.

<sup>9</sup> *Ibid.*

<sup>10</sup> Acts 1937; Burns, 1941 suppl., 61-636; Baldwin, 1937 suppl., 13844-57.

<sup>11</sup> Acts 1937; Burns, 1941 suppl., 61-633; Baldwin, 1937 suppl., 13844-54.

<sup>12</sup> Acts 1937; Burns, 1941 suppl., 61-638; Baldwin, 1937 suppl., 13844-59.

<sup>13</sup> Acts 1937; Burns, 1941 suppl., 61-629; Baldwin, 1937 suppl., 13844-50.

<sup>14</sup> Acts 1937; Burns, 1941 suppl., 61-633; Baldwin, 1937 suppl., 13844-54.

187. DEPOSITORY BOND RECORD, Dec. 29, 1928-June 11, 1932.  
1 vol. (1).

Record of bonds posted by depositories of county funds, showing date, amount, and conditions of bond, and names and addresses of depository and sureties. Arr. chron. by date of bond. Hdw. 434 pp. 17 x 15 x 2½. Attic strg. room.

## XIX. COUNTY SCHOOL FUND BOARD

### EVOLUTION AND STRUCTURAL ORGANIZATION

The county school fund board has existed in Fulton County ever since 1935 under the requirements of an act of 1935. The board is composed of the county auditor, the clerk of the circuit court, and one member appointed by the judge of the circuit court for a 2-year term. No more than two members of the board may be adherents of the same political party.<sup>1</sup> The appointed member must be an elector of the county at the time of his appointment, must have been an inhabitant thereof during the preceding year, must reside within the county after his appointment,<sup>2</sup> and must take an oath to support the State and Federal Constitutions and faithfully discharge his duties.<sup>3</sup>

The appointed member of the county school fund board receives, as compensation, \$2 for each loan made by the board, which amount is taxed as a part of the costs and is paid by the borrower. The auditor and the clerk of the circuit court receive no compensation in addition to their regular salaries, for their services on the county school fund board.<sup>4</sup>

For sufficient legal causes any member of the county school fund board may be removed by the circuit court, after trial by jury on an accusation presented by the grand jury or verified by the oath of any person.<sup>5</sup> If any member be con-

<sup>1</sup> Acts 1865, 1935; Burns, 1941 suppl., 28-209; Baldwin, 1935 suppl., 6558.

<sup>2</sup> Const. 1851, art. 6, secs. 4, 6.

<sup>3</sup> Const. 1851, art. 15, sec. 4. 1 Rev. Stat. 1852; Burns 49-101; Baldwin 13054.

For the qualifications and oath of the ex officio members, see the essays entitled "Auditor" and "Clerk of the Circuit Court."

<sup>4</sup> 1 Rev. Stat. 1852, ch. 93, sec. 69. Acts 1853, ch. 106, sec. 5. Acts 1865, 1935; Burns, 1941 suppl., 28-209; Baldwin, 1935 suppl., 6558.

<sup>5</sup> Const. 1851, art. 2, secs. 6, 7; art. 6, sec. 8. Acts 1831 (Spec. Sess.); Burns 4-303; Baldwin 1397. Acts 1897, 1899; Burns 49-821 to 49-824, 49-836; Baldwin 13154 to 13166, 13050, 13168. Acts 1875; Burns 49-837; Baldwin 13052. *McComas v. Krug*, 81 Ind. 327 (1879) (intoxication).

victed of a felony the judgment of conviction must declare his office vacant.<sup>6</sup>

The judge of the circuit court fills the vacancy as to the member appointed by him.<sup>7</sup> Any vacancy in the office of the other members is filled by replacement in the office of the county auditor or clerk of the circuit court, as the case may be, the membership in the county school fund board being an incident to such office.<sup>8</sup>

From 1836 until 1849 loans from the school funds were made by the county school commissioner. In 1849 this office was abolished and the duties thereof were divided between the auditor and the treasurer, under the direction of the board of commissioners.<sup>9</sup> With appraisals made by the township trustees, the auditor had authority to make loans until 1935.<sup>10</sup> An act of March 12, 1935 (repealed on March 9, 1937) authorized the auditor, with the approval of the board of commissioners, to employ an "administrator of the school fund loans" to make investigations, collections, and recommendations under the supervision of the auditor.<sup>11</sup>

#### FUNCTIONS AND RECORDS

The school funds held by the county in trust for the purpose of making loans therefrom are kept by the auditor in three accounts, to wit: The "common school fund," the "Congressional township school fund," and the "permanent endowment fund of the Indiana University." These trust funds are loaned by the county school fund board.<sup>12</sup>

All loans made by the county school fund board (except those made to the county) must be secured by first mortgages on real estate. The applicant for a loan must furnish the necessary title papers and an abstract of title; must make an affidavit that the abstract is a true one and that he knows of no encumbrance; and must present a certificate of the recorder and clerk of the circuit court that there is no encumbrance on the property. A title "derived from sale for taxes" cannot be accepted. The county attorney examines the title, and

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<sup>6</sup> Acts 1897, 1899; Burns 49-834; Baldwin 13050.

<sup>7</sup> Acts 1865, 1935; Burns, 1941 suppl., 28-209; Baldwin, 1935 suppl., 6558.

<sup>8</sup> See the essays entitled "Auditor" and "Clerk of the Circuit Court."

<sup>9</sup> See the essay entitled "County School Commissioner (1836-49)."

<sup>10</sup> 1 Rev. Stat. 1852, ch. 98, secs. 34, 35. Acts 1865, ch. 1, sec. 75.

<sup>11</sup> Acts 1935, ch. 273 (repealed by Acts 1937, ch. 153).

<sup>12</sup> Const. 1851, art. 8, secs. 2-7. Acts 1865; Burns 28-101, 28-105; Baldwin 6499, 6511. Acts 1907; Burns 28-102; Baldwin 6500. Acts 1865, 1893, 1932 (Spec. Sess.), 1933; Burns 28-1013; Baldwin 6490.

appraisers (annually appointed by the board of commissioners) ascertain the value of the property. The county school fund board, after considering the reports of the county attorney and appraisers, then determines whether the title and value of the property are sufficient security for the proposed loan.<sup>13</sup>

Not more than \$4,000 can be loaned to any one person or company,<sup>14</sup> and the amount loaned cannot exceed one-half the last assessed valuation of the property for taxes.<sup>15</sup> The interest rate on such loans (except those made to the county) is 5 percent per annum.<sup>16</sup> Loans may be made to the county, on proper authorization by the county council, for a period not exceeding 5 years,<sup>17</sup> and the rate of interest thereon is 6 percent per annum.<sup>18</sup> No loan can be made for a term longer than 5 years. At the end of any year before default, the borrower may pay an amount not less than 10 percent of the original principal of the loan.<sup>19</sup> Expenses of appraisers, abstract of title, and recording the mortgage are paid by the borrower except when the county pays such expenses upon the order of the board of commissioners.<sup>20</sup> In making such loans preference must be given to the residents of the county.<sup>21</sup> Loans may be made to corporations or individuals.<sup>22</sup>

The mortgage must specify whether it belongs to the common school fund, to the permanent endowment fund of Indiana University, or to the Congressional township school fund, and, if the latter, the particular township or town-

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Permanent endowment fund of Indiana University. Acts 1897; Burns 28-5542 to 28-5545; Baldwin 6908 to 6911. Acts 1883; Burns 28-5579; Baldwin 6956. Fisher v. Brower, 159 Ind. 139, 64 N. E. 614 (1902).

The sources of the funds held in trust for school purposes and the distribution of the interest thereon are discussed under the section entitled "Education" in the essay entitled "Governmental Organization and Records System."

<sup>13</sup> Acts 1865, 1935; Burns, 1941 suppl., 28-209; Baldwin, 1935 suppl., 6558. Acts 1881 (Spec. Sess.); Burns 28-210; Baldwin 6580. Acts 1865, 1885 (Spec. Sess.); Burns 28-211 to 213; Baldwin 6562, 6559, 6560.

<sup>14</sup> Acts 1901; Burns 28-220; Baldwin 6564.

<sup>15</sup> Acts 1901, 1903, 1923; Burns 28-221; Baldwin 6565.

<sup>16</sup> Acts 1933; Burns 28-215; Baldwin 6574.

<sup>17</sup> Acts 1901; Burns 28-201, 28-202; Baldwin 6568, 6569.

<sup>18</sup> Acts 1901; Burns 28-204; Baldwin 6571.

<sup>19</sup> Acts 1901; Burns 28-223; Baldwin 6567. Acts 1913; Burns 28-258; Baldwin 6610.

<sup>20</sup> Acts 1905; Burns 28-227; Baldwin 6619.

<sup>21</sup> Acts 1865, 1885; Burns 28-214; Baldwin 6561.

<sup>22</sup> Op. Atty. Gen. 1938, p. 104.



ships whose trust funds are loaned.<sup>23</sup> The auditor must immediately deliver the mortgage to the recorder for recording, and must deduct from the loan the amount of the recording fee.<sup>24</sup> Payments on these loans are made to the treasurer; and his receipt is filed with the auditor, who gives the payer a quietus therefor.<sup>25</sup> The auditor may accept, at face value, bonds of the the Home Owners Loan Corporation or Federal Farm Mortgage Corporation (agencies of the United States) in payment of these loans when presented by said corporations or their agents.<sup>26</sup> Default in payment of interest when due causes the principal of the loan to become due and payable.<sup>27</sup> Borrowers from the school funds may have their mortgages renewed at the end of 5 years by giving notice to the auditor. Their property must be reappraised before such renewal.<sup>28</sup> The auditor forecloses or otherwise enforces the defaulted mortgages.<sup>29</sup> Whenever land acquired by the county through default on such loans cannot be sold by the auditor for an amount sufficient to cover the loan, the interest thereon, and expenses in connection therewith, the county may pay the loan, accept the land, and take possession thereof.<sup>30</sup>

Whenever more than \$5000 of the principal of any one of these funds remains unloaned in the county for 6 months, the county auditor must notify the Auditor of State, and the

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<sup>23</sup> Acts 1865; Burns 28-230 to 28-232; Baldwin 6587 to 6589.

<sup>24</sup> Acts 1865; Burns 28-233; Baldwin 6583.

<sup>25</sup> Acts 1865, 1901; Burns 28-235 to 28-237; Baldwin 6592, 6593, 6610.

<sup>26</sup> Acts 1935; Burns, 1941 suppl., 28-268; Baldwin, 1935 suppl., 6572-1.

<sup>27</sup> Acts 1865; Burns 28-241; Baldwin 6585.

<sup>28</sup> Acts 1913; Burns 28-258; Baldwin 6610.

<sup>29</sup> Rev. Stat. 1843, ch. 13, sec. 96. Acts 1855, ch. 86, sec. 86, Acts 1865, 1885 (Spec. Sess.), 1889, 1933; Burns 28-240 to 28-244, 28-246 to 28-249; Baldwin 6586, 6583, 6595 6597, 6599 to 6601, 6594. Webb v. Moore, 24 Ind. 5 (1865); Key v. Ostrander, 29 Ind. 1 (1867); Bonnell v. Ray, 71 Ind. 141 (1880); Willson v. Brown, 82 Ind. 471 (1882); Benefiel v. Aughe, 93 Ind. 401 (1884); Shannon v. Hay, 106 Ind. 589, 7 N. E. 376 (1886); Windstandley v. Crim, 117 Ind. 328, N. E. 833 (1886); Haynes v. Cox, 118 Ind. 184, 20 N. E. 753 (1889); Work v. State ex rel. Holland, 120 Ind. 119, 22 N. E. 127 (1889); State ex rel. Longfellow v. Wimer, 166 Ind. 530, 77 N. E. 1078 (1906).

<sup>30</sup> Acts 1899; Burns 28-250 to 28-256; Baldwin 6602 to 6608. Board of County Comrs. v. State ex rel. Michener, 120 Ind. 442, 22 N. E. 339 (1889); Board of County Comrs. v. State ex rel. Michener, 122 Ind. 333, 24 N. E. 247 (1890); State ex rel. Michener v. Board of County Comrs., 5 Ind. App. 220, 32 N. E. 92 (1892).



unloaned moneys may be transferred to another county.<sup>31</sup>

The auditor and treasurer make annual reports to the board of commissioners showing the condition and activity of these school funds. The board of commissioners examines the reports, makes a written report of such examination, enters it of record, and transmits copies (signed by the auditor, treasurer, and county commissioners) to the State Superintendent of Public Instruction and the Auditor of State.<sup>32</sup> Where the whole or part of the school funds of the county have been loaned, the auditor apportions to each Congressional township a sufficient number of mortgages to cover the principal of its Congressional township school fund.<sup>33</sup> A "miscellaneous school fund account" with the Congressional township school fund may be kept by the auditor to enable him to aggregate small sums of available trust funds to be used for one loan. In his reports he shows fully the distribution of all school funds.<sup>34</sup>

The auditor makes and keeps complete records of all loans made by the county school fund board, showing all payments and proceedings thereon.<sup>35</sup> The record entries for loans to counties are similar to those made for loans to private individuals.<sup>36</sup> Once each quarter the auditor publishes in a local newspaper a statement of the amount of school funds unloaned.<sup>37</sup>

## XX. TREASURER

### LEGAL STATUS

The office of treasurer has existed in Fulton County ever since 1836 under the requirements of acts of 1831, 1838, 1841 and 1843, and the Constitution of 1851. The treasurer is elected for a 2-year term by the voters of the county.<sup>1</sup> He is commissioned by the Governor of Indiana<sup>2</sup> and holds office

<sup>31</sup> Acts 1901; Burns 28-206; Baldwin 6573.

<sup>32</sup> Acts 1855, ch. 86, secs. 88, 95. Acts 1865; Burns 28-259 to 28-262; Baldwin 6611 to 6614.

<sup>33</sup> Acts 1865; Burns 28-263; Baldwin 6615.

<sup>34</sup> Acts 1879; Burns 28-264 to 28-266; Baldwin 6616 to 6618.

<sup>35</sup> Acts 1901; Burns 28-201 to 28-206; Baldwin 6568 to 6573. Acts 1865, 1901; Burns 28-235 to 28-237; Baldwin 6592, 6593, 6610.

<sup>36</sup> Acts 1901; Burns 28-201 to 28-206; Baldwin 6568 to 6573.

<sup>37</sup> Acts 1883, ch. 58, sec. 1. Acts 1899, ch. 95, sec. 1. Acts 1907; Burns 28-207, 28-208; Baldwin 6556, 6557. Board of County Comrs. v. Leslie, 63 Ind. 492 (1878).

<sup>1</sup> Const. 1851, art. 6, sec. 2. Gemmer v. State ex rel. Stephens, 163 Ind. 150, 71 N. E. 478 (1904). See footnotes 21-25 herein.

<sup>2</sup> Const. 1851, art. 15, sec. 6. Rev. Stat. 1843, ch. 4, sec. 56. 1 Rev. Stat. 1852; Burns 49-201; Baldwin 13095.

until his successor is elected and qualified.<sup>3</sup> No person is eligible to hold the office more than 4 years in any 6-year period.<sup>4</sup>

The treasurer must be an elector of the county at the time of his election; must have been an inhabitant thereof throughout the preceding year;<sup>5</sup> must reside within the county after his election; must not hold any other lucrative office;<sup>6</sup> and must not practice law.<sup>7</sup>

He must post an official bond covering his duties as county treasurer, to be approved by the board of commissioners and filed with the clerk of the circuit court. The bond must be in an amount not less than the amount of money which may come into his hands as county treasurer at any time during his term, as determined by the board.<sup>8</sup> The treasurer must take an oath that he will support the State and Federal Constitutions and will faithfully discharge the duties of his office.<sup>9</sup>

The treasurer receives a regular salary of \$1,640 per year. In addition to this salary, he receives, as compensation for himself, 6 percent of all delinquent personal property taxes collected by him, plus a "demand fee" of 50 cents on each collection of delinquent taxes resulting from personal demand. From 1919 until 1933 he also received \$5 per day for each day actually served as a member of the board of review of the county.<sup>10</sup>

<sup>3</sup> Const. 1851, art. 15, sec. 3.

<sup>4</sup> *Ibid.*, art. 2, sec. 11; art. 6, sec. 2.

<sup>5</sup> *Ibid.*, art. 6, sec. 4. Rev. Stat. 1843, ch. 4, secs. 73, 74.

<sup>6</sup> Const. 1851, art. 2, sec. 9; art. 6, sec. 6. Rev. Stat. 1843, ch. 4, secs. 61, 75.

<sup>7</sup> Acts 1865, ch. 42 (misnumbered 62), sec. 2. Acts 1881 (Spec. Sess.), ch. 37, sec. 115. Acts 1905, 1941; Burns, 1941 suppl., 10-3102; Baldwin, 1941 suppl., 2636. *McCracken v. State*, 27 Ind. 491 (1867).

<sup>8</sup> Rev. L. 1831, ch. 21, sec. 1; ch. 81, secs. 17, 19. Rev. Stat. 1843, ch. 4, secs. 88, 92-100; ch. 27, secs. 71-73. Acts 1905; Burns 10-3708; Baldwin 2660. 1 Rev. Stat. 1852; Burns 49-104, 49-105, 49-120; Baldwin 13057, 13053, 13068. Acts 1851-52; Burns 49-123; Baldwin 13063. 1 Rev. Stat. 1852, Acts 1865, 1919; Burns 49-3101; Baldwin 5548. *Pepper v. State ex rel. Harvey*, 22 Ind. 399 (1864).

<sup>9</sup> Const. 1851, art. 15, sec. 4. Rev. L. 1831, ch. 81, sec. 17. Rev. Stat. 1843 ch. 4, secs. 77, 78, 81, 83, 84, 92; ch. 7, secs. 72, 73. Acts 1905; Burns 10-3708; Baldwin 2660. 1 Rev. Stat. 1852; Burns 49-101; Baldwin 13054.

<sup>10</sup> Rev. L. 1831, ch. 21, sec. 5; ch. 81, sec. 40. Rev. Stat. 1838, ch. 22, sec. 5. Rev. Stat. 1843, ch. 7, sec. 90; ch. 12, secs. 59, 71. Acts 1871, ch. 17, secs. 29, 30. Acts 1933; Burns 49-1001, 49-1004, 49-1016; Baldwin 7531, 7534, 7546. Acts 1933, 1937; Burns, 1941 suppl., 49-1006; Baldwin, 1937 suppl., 7536. Acts 1919, 1920 (Spec. Sess.); Burns 64-1201, 64-1204; Baldwin 15700, 15703. *Town of Paoli v. Charles*, 164 Ind. 690, 74 N. E. 508 (1905). Op. Atty. Gen. 1934, p. 313; 1936, p. 130.

For sufficient legal causes the treasurer may be removed from office by the circuit court after trial by jury on an accusation presented by the grand jury or verified by the oath of any person.<sup>11</sup> If the treasurer be convicted of a felony, the judgment of conviction must declare his office vacant.<sup>12</sup> If the treasurer becomes officially delinquent and a suit is commenced on his official bond, he may be removed from office by the board of commissioners,<sup>13</sup> but such removal is subject to review by the circuit court.<sup>14</sup>

Any vacancy in the office of treasurer is filled through appointment by the board of commissioners. The appointee must take an oath and post bond, as was required of his predecessor, and holds office for the unexpired term and until his successor is elected and qualified.<sup>15</sup>

The treasurer may appoint one deputy and one or more assistants under authority from the board of commissioners. The county council fixes the salaries of the deputy and assistants in an amount not less than \$75 nor more than \$125 per month.<sup>16</sup> The treasurer may, at his own expense, employ other persons to collect delinquent personal property taxes by personal demand.<sup>17</sup> The treasurer may require the deputy to give bond.<sup>18</sup> The deputy must take the oath required of the treasurer, may perform all the official duties of the treasurer, and is subject to the same regulations and penalties.<sup>19</sup> The treasurer may remove such deputy and assistants at any time, and is responsible for their official acts.<sup>20</sup>

<sup>11</sup> Const. 1851, art. 2, secs. 6, 7, art. 6, sec. 8. Rev. L. 1831, ch. 21, sec. 8. Acts 1897, 1899; Burns 49-821 to 49-834, 49-836; Baldwin 13154 to 13166, 13050, 13168. Acts 1875; Burns 49-337; Baldwin 13052.

<sup>12</sup> Acts 1897, 1899; Burns 49-834; Baldwin 13050.

<sup>13</sup> Rev. L. 1831, ch. 21, sec. 6. Rev. Stat. 1838, ch. 22, sec. 6. Rev. Stat. 1843, ch. 7, sec. 87. 1 Rev. Stat. 1852; Burns 49-3115; Baldwin 5562.

<sup>14</sup> 1 Rev. Stat. 1852; Burns 26-901; Baldwin 5277.

<sup>15</sup> Const. 1851, art. 6, sec. 9. Rev. L. 1831, ch. 21, sec. 6. Rev. Stat. 1843, ch. 4, secs. 136, 139, 160, 162, 163, 168, 169; ch. 7, secs. 74, 87. Rev. Stat. 1843, ch. 7, sec. 74. Acts 1881 (Spec. Sess.); Burns 29-701; Baldwin 7081. 1 Rev. Stat. 1852; Burns 49-405, 49-408, 49-409; Baldwin 13104, 13106, 13107. *Douglass v. State ex rel. Wright*, 31 Ind. 429 (1869); *Beale v. State ex rel. Gray*, 49 Ind. 41 (1874); *Weaver v. State ex rel. Sims*, 152 Ind. 479, 53 N. E. 450 (1899). Information obtained from Omer Stokes Jackson, Attorney General of Indiana, on August 29, 1939, by W. Davis Hamilton.

<sup>16</sup> Rev. L. 1831, ch. 81, secs. 17, 37. Rev. Stat. 1843, ch. 12, sec. 153. 1 Rev. Stat. 1852, Acts 1855, 1925; Burns 49-501; Baldwin 13108. Acts 1933 1935, 1937; Burns, 1941 suppl., 49-1002; Baldwin, 1937 suppl., 7532. Op. Atty. Gen. 1934, p. 256; 1937, p. 324.

<sup>17</sup> Acts 1933, 1937; Burns, 1941 suppl., 49-1006; Baldwin, 1937 suppl., 7536.

<sup>18</sup> 1 Rev. Stat. 1852, Acts 1855, 1925; Burns 49-501; Baldwin 13108.

<sup>19</sup> Rev. Stat. 1843, ch. 4, sec. 85. 1 Rev. Stat. 1852; Burns 49-502; Baldwin 13109. *Lucas v. Shepherd*, 16 Ind. 368 (1861).

<sup>20</sup> Rev. Stat. 1843, ch. 7, sec. 88; ch. 12, secs. 82, 153. 1 Rev. Stat. 1852; Burns 49-503;

From the organization of Fulton County in 1836<sup>21</sup> until 1841 a county treasurer was annually appointed by the board doing county business.<sup>22</sup> He received and disbursed county funds; received taxes collected by the tax collector; collected the fees charged for the licensing of taverns, shows, and vending of foreign merchandise; kept a separate account of receipts from fines, to be used to support county seminaries; and made annual settlement with the board.<sup>23</sup> From 1836 until 1841 a county tax collector was appointed annually by the board.<sup>24</sup> The duties of the tax collector are set out in the essay entitled "Tax Collector (1836-41)." In 1841 the office of county tax collector was abolished and the duties of that office were transferred to the county treasurer. From 1841 until the adoption of the Constitution of 1851, the treasurer was elected for a 3-year term, by the voters of the county.<sup>25</sup>

#### FUNCTIONS AND RECORDS

The treasurer receives all moneys coming to the county, issues official receipts therefor, and disburses the same on warrants issued by the auditor. The treasurer countersigns each warrant and stamps thereon the name of the depository by which it is payable. He may pay a warrant to the holder thereof out of funds in his office after requiring the payee and holder to endorse the same, in which case he must deposit the warrant in the depository in lieu of the cash paid out to the holder; or he may require the holder to present the warrant to the depository for payment.<sup>26</sup> If no funds are avail-

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Baldwin 13110. Acts 1933, 1935, 1937; Burns, 1941 suppl., 49-1002; Baldwin, 1937 suppl., 7532.

<sup>21</sup> Fulton Organization Acts. Acts 1834-35 (general), ch. 25, sec. 8. Acts 1835-36 (general), ch. 16, sec. 1.

<sup>22</sup> Rev. L. 1831, ch. 21, sec. 1. Rev. Stat. 1838, ch. 22, sec. 1.

<sup>23</sup> Rev. L. 1831, ch. 20, secs. 15, 17; ch. 21, secs. 1-10; ch. 81, secs. 14, 29, 31, 38, 39, 45, 46, 50. Rev. Stat. 1838, ch. 21, secs. 15, 17; ch. 22; ch. 41, sec. 8; ch. 105, secs. 1-6.

<sup>24</sup> Rev. L. 1824, ch. 86, secs. 18, 42. Rev. L. 1831, ch. 81, secs. 17, 18.

<sup>25</sup> Const. 1851, art. 6, sec. 2. Acts 1840-41 (general), ch. 4, secs. 1, 13-22. Rev. Stat. 1843, ch. 4, secs. 2, 18; ch. 7, secs. 70, 75-91; ch. 12, secs. 53-160. Ham v. State ex rel. Williams, 7 Blackford 344 (1844).

<sup>26</sup> Rev. L. 1831, ch. 21, sec. 2. Rev. Stat. 1838, ch. 22, secs. 1, 2. Rev. Stat. 1843, ch. 7, secs. 76-84, 91. Acts 1899, 1935; Burns, 1941 suppl., 26-522; Baldwin, 1935 suppl., 5386. 2 Rev. Stat. 1852, Acts 1891; Burns 49-2710; Baldwin 1437. 1 Rev. Stat. 1852; Burns 49-3103, 49-3104, 49-3111; Baldwin 5550, 5551, 5558. Acts 1937; Burns, 1941 suppl., 61-627; Baldwin, 1937 suppl., 18844-48. State ex rel. Zable v. Benson, 70 Ind. 481 (1880).

Estrays and driftage. Rev. Stat. 1838, ch. 37, secs. 1-19.



able to pay a warrant when presented for payment, the treasurer endorses thereon the words "not paid for want of funds" and the date of such presentment. When funds become available he publishes a call for redemption of such warrants.<sup>27</sup>

The treasurer collects property taxes and poll taxes for the State and county and also for townships, cities, and towns in the county, as shown on the tax duplicate delivered to him by the auditor;<sup>28</sup> reports omitted polls and property to the auditor for assessment;<sup>29</sup> keeps an "insolvent record" of dropped taxes (prepared by the auditor,<sup>30</sup> keeps auditor's certificates correcting the tax duplicate;<sup>31</sup> sells real estate and personal property at public auction for delinquent taxes;<sup>32</sup> collects corporate taxes,<sup>33</sup> inheritance taxes,<sup>34</sup> and the excise tax on shares of stock and deposits of banks, trust companies, and loan associations;<sup>35</sup> sells intangible tax stamps for the Indiana Tax Board;<sup>36</sup> and collects school fund loans<sup>37</sup> and special assessments for public improvements;<sup>38</sup> and collects certain military fines and pays the same to the Adjutant General of the State.<sup>39</sup> Records of these funds and transactions are kept by him.

All public funds paid into the county treasury must be

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<sup>27</sup> Acts 1899; Burns 49-3007, 49-3008; Baldwin 5420, 5421. 1 Rev. Stat. 1852; Burns 49-3111 Baldwin 5558.

<sup>28</sup> Rev. Stat. 1843, ch. 7, sec. 86; ch. 12, secs. 53-55, 62, 67, 174. Acts 1897, ch. 54, sec. 1. Acts 1905; Burns 48-6701, 48-6702, 48-6705; Baldwin 11511 to 11513. Acts 1919; Burns 64-1408, 64-1502; Baldwin 15745, 15748. Standard Oil Co. v. Bretz, 98 Ind. 231 (1884).

<sup>29</sup> Acts 1919; Burns 64-2102; Baldwin 15803.

<sup>30</sup> Act 1919; Burns 64-2801; Baldwin 15684.

<sup>31</sup> Acts 1919, 1925, 1941; Burns, 1941 suppl., 64-1407, 64-1516, 64-2203, 64-2205; Baldwin, 1941 suppl., 15744, 15770, 15803, 15810.

<sup>32</sup> Rev. Stat. 1843, ch. 7, sec. 89; ch. 12, secs. 56-67, 83-126. Acts 1932 (Spec. Sess.); Burns 64-1509, 64-1511; Baldwin 15752, 15754. Acts 1919, 1931; Burns 64-1701 o 64-1705, 64-2201, 94-2203 to 64-2211; Baldwin 15778 to 15782, 15806, 15808 to 15818. Acts 1919, 1931, 1837; Burns, 1941 suppl., 64-2202; Baldwin, 1937 suppl., 15807. Pay v. Shanks, 56 Ind. 554 (1877).

<sup>33</sup> Acts 1919; Burns 64-1801; Baldwin 15783.

<sup>34</sup> Acts 1931; Burns 6-2413; Baldwin 5951.

<sup>35</sup> Acts 1933; Burns 64-804, 64-807, 64-810, 64-827; Baldwin 15585, 15588, 15591, 15608.

<sup>36</sup> Acts 1933; Burns 64-927; Baldwin 15925.

<sup>37</sup> Acts 1865; Burns 28-235; Baldwin 6592.

<sup>38</sup> Drainage. Acts 1933; Burns 27-134; Baldwin 5770.

Levees. Acts 1907, 1927, 1933; Burns 27-805; Baldwin 10214.

Roads. Acts 1905; Burns 36-1308; Baldwin 8794. Acts 1921; Burns 36-1439, 36-1440;

Baldwin 8942, 8943

<sup>39</sup> Acts 1923; Burns 45-510; Baldwin 10894.



deposited by the treasurer daily in one or more depositories designated by the county board of finance. The treasurer makes monthly reports to the board of finance showing the balance of funds in the country treasury at the end of the previous month—consistent with the depository statements furnished to the board and treasurer;<sup>40</sup> makes annual reports to the board of commissioners concerning school funds;<sup>41</sup> makes quarterly reports to the board of commissioners and auditor showing the amount of money in the county treasury;<sup>42</sup> makes monthly reports to the auditor showing the total amount of cash payments received by him during the month and the respective accounts on which they were applied;<sup>43</sup> makes annual settlements with the board of commissioners in January;<sup>44</sup> makes semiannual settlements for taxes with the county auditor in May and November,<sup>45</sup> and in accordance therewith pays to the State Treasurer in June and December all money due for State purposes;<sup>46</sup> and also makes payments to the State Treasurer at other times in accordance with official requests therefor.<sup>47</sup> He makes quarterly reports to the auditor showing specifically the amount of fees collected;<sup>48</sup> and deposits quarterly with the auditor all redeemed warrants.<sup>49</sup>

The treasurer must keep his office, books, and papers in a fireproof building (if available) and his office must be open for transaction of business during business hours.<sup>50</sup> He must keep a cashbook wherein are entered daily, by item, all receipts of public funds. The book must be balanced daily, show funds on hand at the close of each day, and be open

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<sup>40</sup> Acts 1907; Burns 61-610; Baldwin 13814. Acts 1937; Burns, 1941 suppl., 61-624; Baldwin, 1937 suppl., 13844-45.

<sup>41</sup> Acts 1865; Burns 28-259; Baldwin 6611.

<sup>42</sup> Acts 1871, ch. 17, secs. 23, 31, 38. Acts 1891, ch. 194, sec. 125. Acts 1895, 1903, 1913; Burns 49-1402; Baldwin 7577. Acts 1895, 1913; Burns 49-1403; Baldwin 7578. Wolfe v. State ex rel. Kennard, 90 Ind. 16 (1883).

<sup>43</sup> Acts 1871, ch. 17, sec. 31. Acts 1919; Burns 64-2101; Baldwin 15802.

<sup>44</sup> Rev. L. 1824, ch. 23, sec. 2. Rev. Stat. 1843, ch. 7, sec. 90. Acts 1899; Burns 26-531; Baldwin 5395. 1 Rev. Stat. 1852; Burns 49-3116; Baldwin 5663.

<sup>45</sup> Rev. Stat. 1843, ch. 12, secs. 68, 154. Acts 1919; Burns 64-2501; Baldwin 15850.

<sup>46</sup> Rev. Stat. 1843, ch. 12, secs. 68, 69. Acts 1919; Burns 64-2503, 64-2504; Baldwin 15852, 15853.

<sup>47</sup> Acts 1859, 1861; Burns 49-1813; Baldwin 15059. Acts 1937; Burns, 1941 suppl., 61-626; Baldwin, 1937 suppl., 13844-47.

<sup>48</sup> Acts 1895, 1903, 1913; Burns 49-1402; Baldwin 7577.

<sup>49</sup> Rev. Stat. 2843, ch. 7, sec. 85. 1 Rev. Stat. 1852; Burns 49-3114; Baldwin 5561.

<sup>50</sup> Rev. Stat. 1843, ch. 7, sec. 75. 1 Rev. Stat. 1852; Burns 49-3106; Baldwin 5553. Acts 1853; Burns 49-3107, 49-3108; Baldwin 5556, 5557.

to public inspection.<sup>51</sup> He keeps records of all receipts and disbursements in a general account, and also in separate accounts for the separate appropriations and distinct funds.<sup>52</sup>

Forms for the record books have been prescribed for county treasurers by the State Board of Accounts: Daily balance of cash and depositories; record of warrants by depositories; ledger of receipts and disbursements; register of taxes collected; record of bids for bonds; and daily inventory of intangible tax stamps. This board has prescribed blank forms of monthly reports and various receipts.<sup>53</sup>

The county treasurer is a member of the county board of review, which meets annually for the purpose of reviewing property tax valuations, assessing omitted property, and allowing tax exemptions.<sup>54</sup>

## RECEIPTS AND DISBURSEMENTS

### GENERAL FUND

188. DAILY BALANCE OF CASH IN DEPOSITORIES, 1906-. 21 vols. (14 vols. unlabeled; 5 vols. dated; 2 vols. unlabeled). Title varies: Daily Cash Balance, 1906-7, 1 vol.; Daily Balance Book, 1908-23, 17 vols.

Record of daily cash and depository balances, showing date of balance, nature and amounts of receipts and disbursements, amounts of deposits and withdrawals, and name of depository. Arr. chron. by date of balance. No index. Hdw. Aver. 300 pp. 16 x 12 x 2½. 18 vols., 1906-27, attic strg. room; 3 vols., Jan. 3, 1928-, treas. vt.

189. RECORD OF MONTHLY BALANCES FULTON COUNTY TREASURER

[Monthly Financial Statements], Jan. 1929-. 2 vols.

Record of treasurer's monthly financial statements of receipts, disbursements, and balances of county funds, showing information as in entry 194. Arr. chron. by date of statement. No index. Hdw. 300 pp. 20½ x 16 x 1. Treas. vt.

<sup>51</sup> Acts 1937; Burns, 1941 suppl., 61-623; Baldwin, 1937 suppl., 13844-44.

<sup>52</sup> Acts 1841-42 (general), ch. 4, sec. 5. Rev. Stat. 1843, ch. 7, sec. 75. 1 Rev. Stat. 1852; Burns 49-3109; Baldwin 5554.

<sup>53</sup> Acts 1909; Burns 60-202; Baldwin 13855. Information obtained from E. P. Brennan, State Examiner, on May 18, 1939, by W. Davis Hamilton.

<sup>54</sup> See the essay entitled "County Board of Review,"

## 190. MONTHLY FINANCIAL STATEMENT, 1935-39. 1 f. b.

Copies of treasurer's monthly financial statements of balances of county funds, showing date of statement, amounts of receipts and disbursements, name of fund, and previous and current balance or overdraft in each fund. Arr. chron. by date of statement. No index. Typed. 11 x 12 x 20. Attic strg. room.

## 191. RECORD OF DEPOSITORY BALANCES, Jan. 1, 1914-Dec. 17, 1924. 6 vols.

Record of deposits and warrants drawn on depositories, showing date and amount of deposit; date, number, and amount of warrant; names of depository and fund; and balance. Arr. chron. by date of deposit. No index. Hdw. 200 pp. 14 x 10 x 2½. Attic strg. room.

## 192. BANK BALANCE JOURNAL, Jan. 5, 1906-Dec. 31, 1912. 2 vols.

Record of deposits, orders, and balances in the different depositories, showing information as in entry 195. Arr. by name of depository and chron. thereunder by date of entry. No index. Hdw. 300 pp. 14 x 9 x 1½. Attic strg. room.

## 193. RECEIPTS AND DISBURSEMENTS, May 31, 1842-Dec. 31, 1910, 1925-. 6 vols. Title varies: Ledger, May 31, 1842-Dec. 31, 1910. 3 vols.

Record of receipts and disbursements of county funds, showing date, nature, and amounts of receipt and disbursement; receipt and warrant numbers; and names of payer, payee, and fund. This is a combination of two records intercurrent-ly kept separately: Treasurer's register of receipts, entry 198; treasurer's cash book of disbursements, entry 199. Arr. chron. by date of receipt and disbursement. No index. Hdw. Aver. 650 pp. 16½ x 13½ x 2½. 3 vols., May 31, 1842-Dec. 31, 1910, attic strg. room; 3 vols., 1925-, treas. vt.

## 194. TREASURERS REGISTER OF RECEIPTS, June 7, 1836-Dec. 31, 1924. 5 vols. (2, 3; 3 vols. unlabeled).

Title varies: Treasurer's Receipts, June 7, 1836-Aug. 10, 1841, 1 vol. 1925- in Receipts and Disbursements, entry 197.

Record of receipts of county revenue, showing date, nature, amount, and number of receipt; names of payer and fund; and total receipts. Also contains: Cash book, 1911-24, entry 200. Arr. chron. by date of receipt. No index. Hdw. 1 vol. 50 pp. 13 x 8 x ¼, June 7, 1836-Aug. 10, 1841; 4 vols. 400 pp. 16 x 12 x 2, Aug. 11, 1841-Dec. 31, 1924. Attic strg. room.

195. TREASURER'S CASH BOOK OF DISBURSEMENTS, Jan. 2, 1911-Dec. 31, 1924. 2 vols. (1 vol. unlabeled; 1 vol. dated). 1925- in Receipts and Disbursements, entry 197.

Record of disbursements of county funds, showing date, number, nature, and amount of warrant; names of payee and fund; and total disbursements. Also contains: Register of orders redeemed, 1911-24, entry 203. Arr. chron. by date of disbursement. No index. Hdw. 642 pp. 18 x 12 x 2½. Attic strg. room.

196. CASH BOOK [MISCELLANEOUS RECEIPTS], Dec. 1, 1871-Dec. 31, 1910. 22 vols. (3 vols. dated; 19 vols. unlabeled). 1911-24 in Treasurer's Register of Receipts, entry 198.

Treasurer's cashbook of miscellaneous receipts, showing date and amount of payment, names of payer and fund, and total receipts. Arr. chron. by date of payment. No index. Hdw., 500 pp. 16 x 12 x 2. Attic strg. room.

197. JOURNAL, May 31, 1842-Mar. 31, 1917. 9 vols. (7; 1 vol. unlabeled; 3-6; 3 vols. unlabeled).

Treasurer's record of miscellaneous disbursements of county funds, showing date and purpose of payment, number and amount of warrant, names of payee and fund. Arr. chron. by date of payment. No index, 1842-94, 1910-17; indexed alph. by name of payee, 1895-1909. Hdw. 400 pp. 16 x 12 x 2. Attic strg. room.

198. MISCELLANEOUS LEDGER, Mar. 31, 1915-Mar. 31, 1917. 1 vol.

Miscellaneous record of receipts and disbursements by the county treasurer, showing date, nature, number, and amounts of receipt and disbursement. Arr. chron. by dates of receipt and disbursement. No index. Hdw. 408 pp. 16 x 12 x 2. Attic strg. room.

199. REGISTER OF ORDERS REDEEMED, 1841-1910. 11 vols. (2, 3; 9 vols. unlabeled). Title varies: Register of Orders, Aug. 20, 1841-May 31, 1879, 4 vols; Register of County Orders Redeemed, June 4, 1872-Nov. 9, 1878, 1 vol. 1911-24 in Treasurer's Cash Book of Disbursements, entry 199.

Register of orders redeemed, showing date, nature, number, and amount of order; names of payee, depository, and fund; and date redeemed. Arr. chron. by date of order. No index. Hdw. Aver. 400 pp. 16 x 12 x 2. Attic strg. room.



200. TREASURER'S REGISTER OF WARRANTS BY DEPOSITORIES,  
Jan. 3, 1925-. 4 vols.

Record of warrants drawn on depositories, showing date, number, and amount of warrant; amounts of deposits and balance; date redeemed; and names of depository and fund. Arr. chron. by date of warrant. No index. Hdw. 1 vol. 201 pp. 16 x 12 x 2, Jan. 3, 1925-Aug. 31, 1929, attic strg. room; 3 vols. 498 pp. 17 x 15 x 2½, Sept. 1, 1929-, treas. vt.

201. CANCELED CHECKS [Warrants], 1906-39. 9 f. b. (dated). Canceled checks issued for payment of county warrants returned to treasurer by depositories, showing date, number, and amount of check and names of depository, payee, and fund. Arr. numer. by check no. No index. Hdw. 11 x 12 x 20. Attic strg. room.

202. TREASURERS FEE BOOK, Sept. 6, 1895-Dec. 31, 1925.  
4 vols. (1-4).

Record of fees received for collection of delinquent taxes, showing date and amount of payment, tax duplicate number, year of delinquency, and name of payer. Arr. chron. by date of payment. No index. Hdw. 500 pp. 14 x 10 x 2. Attic strg. room.

#### SCHOOL FUNDS

203. LEDGER OF TRUST FUND, June 1868-72. 1 vol.

Record of receipts and disbursements of school funds, showing dates and amounts of receipt and disbursement; date of entry; receipt and order numbers; and names of payee, payer, and fund. Arr. chron. by date of entry. No index. Hdw. 300 pp. 16 x 11 x 2. Attic strg. room.

204. REGISTER OF RECEIPTS, SCHOOL FUND, Jan. 3, 1910-Dec.  
27, 1913. 1 vol. (2).

Treasurer's record of receipts of school funds, showing date and amount of payment, and names of payer and fund. Arr. chron. by date of payment. No index. Hdw. 250 pp. 16 x 12 x 2. Attic strg. room.

205. REGISTER OF ORDERS, SCHOOL FUND, June 1, 1872-Dec.  
23, 1911. 1 vol.

Register of orders drawn for disbursement of school funds, showing date, number, nature, and amount of order and names of payee and fund. Arr. chron. by date of order. No index. Hdw. 250 pp. 16 x 12 x 2. Attic strg. room.

206. REGISTER OF INTEREST ON SCHOOL-SURPLUS REVENUE & SEMI-  
NARY FUNDS, Dec. 15, 1836-April 15, 1851. 1 vol.

Record of school, surplus revenue, and seminary funds paid into county treasury, showing date of payment, name of payer,



and amount of principal and interest paid. Arr. chron. by date of payment. No index. Hdw. 75 pp. 12 x 8 x  $\frac{1}{4}$ . Attic strg. room.

## TAXATION

## REAL, PERSONAL, AND POLL

207. TAX DUPLICATE [AND DELINQUENT LIST], 1877-. 157 vols. (154 vols. dated; 1-3).

Record of taxes payable and amounts returned delinquent, showing information as in entry 212, and also delinquent list. This is a combination of two records formerly kept separately: Tax duplicate, entry 212; delinquent list, entry 213. Arr. chron. by name of taxing unit and alph. thereunder by name of taxpayer. No index. Aver. 250 pp.  $16\frac{1}{2}$  x  $23\frac{1}{2}$  x  $2\frac{1}{2}$ . 89 vols., 1877-1919, attic strg. room; 68 vols., 1920-, treas. vt.

208. TAX DUPLICATE, 1843-76. 52 vols. (dated). Title varies: Duplicate, 1843-46, 3 vol. 1877-1912 in Tax Duplicate and Delinquent List, entry 211.

Treasurer's record of taxes payable, showing instalment dates; name of taxpayer and taxing unit; duplicate number; location, description, and assessed valuation of lands, lots, and improvements; assessed valuation of personal property; amount of exemption; net taxable valuation of all property; number of polls; amount of special assessments; and total tax payable. Arr. by name of taxing unit and alph. thereunder by name of taxpayer. No index. Aver. 160 pp. 16 x 14 x  $1\frac{1}{2}$ . Attic strg. room.

209. DELINQUENT LIST, 1849-76. 1 bdl. and 11 vols. (1; 2 vols. unlabeled; 7 vols. dated). Title varies: Delinquent Tax Lists, 1849-59, 1 bdl. 1877-in Tax Duplicate and Delinquent List, entry 211.

Record of taxes returned delinquent, showing year of delinquency; names of taxpayer and taxing unit; location, description, and assessed valuation of real and personal property; and amounts of delinquency, penalty, and interest. Arr. by name of taxing unit and alph. thereunder by name of taxpayer. No index. Hdw. Bdl. 13 x 20 x 3; vols. aver. 400 pp. 17 x 16 x  $2\frac{1}{2}$ . Attic strg. room.

210. TAX RECEIPT MORATORIUM, Sept. 5, 1934-Nov. 5, 1934. 1 vol. (dated).

Record of delinquent tax payments deferred, showing date of moratorium; duplicate number; schedule of payments; names of property owner and taxing unit; location and description of property; amounts of delinquency, interest, and balance; and dates of payments. Arr. by name of taxing unit and numer.

thereunder by tax duplicate no. No index. Hdw. 50 pp. 6 x 8½ x ½. Attic strg. room.

211. MORATORIUM TAX RECEIPTS, 1935-. 12 vols. (2 vols. dated; 2 vols. unlabeled; 8 vols. dated).

Duplicates of receipts issued by treasurer to taxpayers upon payment of taxes under moratorium, showing date, amount, and number of receipt; name of taxpayer; tax duplicate number; and location and description of property. Arr. numer. by receipt no. No index. Hdw. 100 pp. 6 x 9 x 1. 4 vols., 1935-37, bsmt. strg. room; 8 vols., 1938-, treas. vt.

212. TAX RECEIPTS, 1920-. 777 vols. (dated).

Duplicate receipts issued for payment of taxes, showing date and amount of payment; receipt number; names of taxpayer, and taxing unit; location and description of property; amounts of taxes due and paid; and tax duplicate number. Arr. by name of taxing unit and numer. thereunder by receipt no. No index. Hdw. 691 vols. 200 pp. 5½ x 8 x 2½, bsmt. strg. room, 1920-37; 86 vols. 400 pp. 6 x 8 x 4, 1938-, treas. vt.

213. DELINQUENT TAX RECEIPTS, 1933-37. 14 vols. (dated).

Duplicates of receipts issued for payment of delinquent taxes, showing dates of receipt and payment, names of taxpayer and taxing unit, location and description of property, personal and poll taxes due, and tax duplicate number. Arr. by name of taxing unit and numer. thereunder by receipt no. No index. Hdw. 500 pp. 5½ x 9 x 4. Attic strg. room.

214. REGISTER OF TAXES COLLECTED, 1911-. 48 vols. (labeling varies). Title varies: Cash Book of Tax Payments, 1911-24, 24 vols.

Record of taxes collected, showing date and amount of collection, tax duplicate number, and names of taxpayer and taxing unit. Arr. chron. by date of payment and alph. thereunder by name of taxing unit. No index. Hdw. Aver. 350 pp. 18 x 15 x 2. 42 vols., Jan. 2, 1911-Nov. 23, 1935, attic strg. room; 6 vols., Nov. 24, 1935-, treas. vt.

215. INSOLVENT RECORD, 1916-. 1 vol. (1).

Record of delinquent poll and personal taxes removed from tax duplicates, showing year of delinquency and removal; names of property owner and taxing unit; amounts of delinquency, interest, and penalty; and reason for removal. Arr. alph. by names of taxing units and alph. thereunder by name of property owner. Hdw. 300 pp. 15 x 17 x 2. Treas. off.

#### INHERITANCE AND INTANGIBLE

216. TREAS [urer's] INHER [itance] TAX RECEIPTS, Feb. 17, 1915-March 12, 1936. 2 vols.

Stubs of receipts issued for payment of inheritance taxes, showing dates of payment and death of decedent; names of decedent, lega-

tees, and payer; amounts of tax, interest or discount, and payment; and cause and receipt numbers. Arr. chron. by date of payment. No index. Hdw. 500 pp. 10 x 24 x 2½. Attic strg. room.

## PUBLIC IMPROVEMENTS

217. DITCH TAX [Receipts], 1903-. 79 vols. (dated). Duplicates of receipts issued for payment of ditch assessments, showing date, number, and amount of receipt, and names of payer and ditch. Arr. chron. by date of receipt. No index. Hdw. Aver. 125 pp. 9 x 5½ x 1. 75 vols., 1903-36, bsmt. strg. room; 4 vols., 1937-, treas. off

218. 5 MILE DITCH DUPLICATE, Feb. 5, 1902-Nov. 1, 1912.  
1 vol.

Record of assessments paid on 5 mile ditches in Fulton County, showing names of taxpayers and taxing units; location and description of lands assessed; cost of location and construction; amount of interest; and total assessment. Arr. by name of taxing unit and alph. thereunder by name of taxpayer. No index. Hdw. 360 pp. 18 27 x 2. Attic strg. room.

219. REGISTER OF ROAD RECEIPTS, 1872-1919. 16 vols.  
(labeling varies).

Register of road tax receipts, showing date and amount of payment, names of taxpayer and township, and total amount paid. Arr. chron. by date of payment. No index. Hdw. 200 pp. 15 x 12 x 2. Attic strg. room.

220. DITCHES, Feb. 9, 1939-. 1 vol.

Record of assessments for construction and repair of ditches, showing date and amount of assessment; names of property owner, taxing unit, and ditch; location and description of property; and date and amount of payment. Arr. alph. by name of property owner. No index. Hdw. 200 pp. 10 x 12½ x 1. Treas. vt.

221. DRAINAGE COMMISSIONERS RECORD, 1882-1908. 2 vols. (1, 2).

Record of assessments ordered by circuit court for construction and repair of ditches, showing date and amount of assessment; names of ditch, landowners, and drainage commissioner; and location and description of land affected. Arr. alph. by name of ditch. No index. Hdw. 338 pp. 18 x 13 x 2. Attic strg. room.

## REPORTS

222. COUNTY TREASURER'S REPORT OF SALES OF INTANGIBLE TAX STAMPS, Dec. 1, 1934-. 1 bdl.

Copies of monthly reports by treasurer to Indiana Tax Board of receipts on account of intangible stamps sold, showing date of report; amount of receipts; and number and denominations of stamps received, sold, and on hand. Arr. chron. by date of report. No index. Hdw. 8½ x 11 x 1. Aud. vt.

## XXI. TAX COLLECTOR (1836-41)

## LEGAL STATUS

From 1836 until 1841 Fulton County had a tax collector who was appointed for a 1-year term by the board of commissioners.<sup>1</sup> He posted bond in the amount of \$5,000, which was approved by the board of commissioners and filed with the clerk of the circuit court.<sup>2</sup> The law provided that any vacancy in the office of the tax collector was to be filled through appointment by the clerk of the circuit court<sup>3</sup> and that the executor, administrator, or legal representative of a deceased tax collector should collect the taxes which had been charged against the decedent as tax collector.<sup>4</sup>

## FUNCTIONS AND RECORDS

The tax collector collected taxes;<sup>5</sup> conducted tax sales; issued tax sale certificates and tax deeds;<sup>6</sup> made and delivered to the clerk of the circuit court an alphabetical list of all white male persons of the age of 21 years or over;<sup>7</sup> prosecuted persons for failure to obtain licenses for public exhibitions;<sup>8</sup> and paid over to the State Treasurer the amount of taxes collected for the State,<sup>9</sup> and to the county treasurer all funds collected for the county.<sup>10</sup>

An act of 1841 abolished the office of county tax collector and transferred the duties thereof to the county treasurer.<sup>11</sup>

<sup>1</sup> Rev. L. 1824, ch. 86, secs. 18, 42. Acts 1827-28, ch. 64, sec. 1. Acts 1828-29, ch. 16, sec. 9. Rev. L. 1831, ch. 81, secs. 17, 18, 27, 33. See footnote 11 herein.

Fulton Organization Acts. Acts 1834-35 (general), ch. 25, sec. 8. Acts 1835-36 (general), ch. 16, sec. 1.

<sup>2</sup> Rev. L. 1824, ch. 86, secs. 18, 27. Rev. L. 1831, ch. 81, sec. 17.

<sup>3</sup> Rev. L. 1824, ch. 86, sec. 30.

<sup>4</sup> *Ibid.*, ch. 23, sec. 6; ch. 68, secs. 1, 2.

<sup>5</sup> Rev. L. 1824, ch. 23, secs. 2, 6, 9, 11, 13; ch. 24, secs. 10, 12; ch. 68, secs. 1, 2; ch. 86, secs. 11-16, 32, 41, 42. Acts 1825, ch. 47, secs. 7, 22, 28; ch. 49, sec. 5. Acts 1825-26, ch. 58, sec. 4. Acts 1826-27, ch. 72, secs. 2, 3, 14. Rev. L. 1831, ch. 81, secs. 14, 20, 34; ch. 82, sec. 39.

<sup>6</sup> Rev. L. 1824, ch. 86, secs. 34-36, 40, 41. Acts 1825, ch. 47, sec. 11. Acts 1825-26, ch. 58, sec. 2. Acts 1827-28, ch. 33, sec. 1; ch. 77, sec. 36. Acts 1828-29, ch. 84, sec. 22. Rev. L. 1831, ch. 81, secs. 22, 24-26, 29-31.

<sup>7</sup> Acts 1829-30, ch. 9, secs. 4, 5.

<sup>8</sup> Rev. L. 1831, ch. 21, sec. 10. Rev. Stat. 1838, ch. 22, sec. 10.

<sup>9</sup> Rev. L. 1824, ch. 86, secs. 19-23, 34, 39. Rev. L. 1831, ch. 81, sec. 39. Acts 1827-28, ch. 59, sec. 2.

<sup>10</sup> Rev. L. 1824, ch. 86, secs. 24, 25, 34, 39.

<sup>11</sup> Acts 1840-41 (general), ch. 4, secs. 1, 13-22.

## XXII. TRUSTEE OF PUBLIC SEMINARY (1837-53)

## LEGAL STATUS

From 1837 until 1853 Fulton County had a trustee of the county seminary, who was appointed by the board of commissioners for a 3-year term.<sup>1</sup> Bonds in varying amounts were posted by the trustee.<sup>2</sup>

## FUNCTIONS AND RECORDS

The seminary trustee had custody of all seminary funds; made loans therefrom; charged interest at a rate not less than 6 percent per annum; prosecuted suits to recover money loaned; distributed funds as ordered by the judge of the circuit court; kept a record showing all funds received and disbursed, all loans made, and payments on such loans; and reported annually to the Speaker of the House of Representatives and to the board of commissioners.<sup>3</sup>

In 1853 the seminary fund was made a part of the common school fund under control of the county auditor, and the operation of schools was transferred to a township board headed by the township trustee.<sup>4</sup>

## XXIII. COUNTY SCHOOL COMMISSIONER (1836-49)

## LEGAL STATUS

From 1836 until 1849 Fulton County had a county school commissioner elected by the voters of the county for a 3-year

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<sup>1</sup> Acts 1817-18 (general), ch. 72, sec. 1. Rev. L. 1824, ch. 22, secs. 1, 2. Rev. L. 1831, ch. 90, secs. 1, 11, 12, 25. Acts 1832-33, ch. 46, sec. 1. Rev. Stat. 1838, ch. 21, sec. 25; ch. 98, secs. 1, 11. Commissioners' Record, vol. A, pp. 30, 98, 140, 181, 182, 238, 246, 248, 315, 423, *see* entry 2.

<sup>2</sup> Acts 1817-18 (general), ch. 72, sec. 1. Rev. L. 1824, ch. 22, sec. 2. Rev. L. 1831 ch. 90, sec. 2. Rev. Stat. 1838, ch. 21, sec. 25; ch. 98, sec. 12.,

<sup>3</sup> Acts 1817-18 (general), ch. 72, sec. 2. Acts 1821-22, ch. 65, sec. 1. Rev. L. 1824, ch. 22, secs. 2, 4, 10, 16. Rev. L. 1831, ch. 90, secs. 7-10, 16. Rev. Stat. 1838, ch. 98, secs. 7, 8, 16, 20, 23. Acts 1841-42 (general), ch. 121, sec. 2. Rev. Stat. 1843, ch. 14, secs. 27, 28, 30, 34,

36. Fassett A. Cotton, *Education in Indiana* (1934), pp. 9, 10, 15.

<sup>4</sup> Const. 1851, art. 8, sec. 2. 1 Rev. Stat. 1852, ch. 98, secs. 1, 4, 34.



term.<sup>1</sup> He posted bond in the amount of \$10,000.<sup>2</sup> The law provided that any vacancy should be filled through appointment by the board of commissioners.<sup>3</sup>

#### FUNCTIONS AND RECORDS

The county school commissioner was a fiscal agent for the school funds. He sold school lands at public sale after publishing and posting notice thereof; sold school lands at private sale, at the minimum price fixed by the trustees of such section, after such lands had been offered at public sale and remained unsold; issued certificates and deeds to the purchasers; recorded the sales of such lands in a book provided for that purpose; and delivered a true copy of the sale certificate to the recorder for recording.<sup>4</sup>

The commissioner received all money accruing from the sales of school lands; loaned out the school funds on first mortgages on real estate; charged interest at the rate of 6 percent per annum; required the borrowers to pay certain expenses in connection with making the loans; could deposit in loan offices the moneys arising from the sale of school lands; could sue to recover school fund loans; filed reports with the board of commissioners specifying how much money was received, to whom loaned, the security taken, and the balance due on any unpaid loan; and delivered to the Auditor of State a statement of all money paid into the State Treasury.<sup>5</sup>

<sup>1</sup> Acts 1828-29, ch. 84, sec. 8. Rev. L. 1831, ch. 86, sec. 6. Acts 1836-37 (general), ch. 2(2), sec. 1; ch. 21, sec. 1. Rev. Stat. 1838, ch. 94(2), sec. 1. Rev. Stat. 1843, ch. 4, secs. 2, 20. Commissioners Record, vol. A, pp. 5, 7, 17, 22, 42, 96, 201 540; vol. B, p. 67, *see* entry 2.

Fulton Organization Acts. Acts 1834-35 (general), ch. 25, sec. 8. Acts 1835-36 (general), ch. 16, sec. 1.

<sup>2</sup> Acts 1828-29, ch. 84, sec. 8. Rev. L. 1831, ch. 86, sec. 6. Acts 1832-33, ch. 70, sec. 5. Acts 1836-37 (general), ch. 2(2), sec. 3. Rev. Stat. 1838, ch. 94(2), sec. 3. Rev. Stat. 1843, ch. 4, sec. 162.

<sup>3</sup> Acts 1828-29, ch. 84, sec. 8. Rev. L. 1831, ch. 86, secs. 6, 33. Acts 1832-33, ch. 70, secs. 4, 9. Acts 1836-37 (general), ch. 2(2), secs. 2, 7. Rev. Stat. 1838, ch. 94(8), secs. 13-16, (general), ch. 2(8), secs. 13-16, 20, 23; ch. 2(11), sec. 5. 2, 7. Rev. Stat. 1843, ch. 4, 160.

<sup>4</sup> Acts 1828-29, ch. 84, secs. 10, 13; ch. 93, sec. 2. Rev. L. 1831, ch. 86, secs. 7, 13, 34. Acts 1832-33, ch. 70, secs. 43, 51, 55-58, 64, 67, 104. Acts 1836-37 (general), ch. 2(8), secs. 13-16, 20, 23; ch. 2(11), sec. 5. Rev. Stat. 1838, ch. 94(2), secs. 13-16, 20, 23; ch. 94(11), sec. 5. Rev. Stat. 1843, ch. 13, secs. 177, 185, 186, 195.

<sup>5</sup> Acts 1828-29, ch. 84, secs. 8, 15, 19; ch. 93, sec. 2. Rev. L. 1831, ch. 86, secs. 6, 19, 22, 24, 26. Acts 1832-33, ch. 70, secs. 8, 84, 86, 91, 92, 100, 115, 116. Acts 1836-37 (general), ch. 2(2), sec. 1; ch. 2(10), secs. 12, 15; ch. 2(11), sec. 11. Rev. Stat. 1838, ch. 94(9), sec. 1; ch. 94(10), secs. 12, 15; ch. 94(11), sec. 11. Rev. Stat. 1843, ch. 13, sec. 109.

Before 1838 when a school section was divided by a county line, it was in charge of the commissioner of the county in which the greater part of such section was situated. After 1838 the township trustee could grant control of such section to the commissioner of any county in which any part of the divided school section was situated.<sup>6</sup>

He kept separate accounts of principal and interest of funds belonging to each Congressional township; kept a record of his proceedings, subject to the inspection and examination of the board of commissioners; and rendered to the board of commissioners an annual report of all money received and disbursed.<sup>7</sup>

In 1849 the General Assembly abolished the office of school commissioner and transferred the duties thereof to the county auditor.<sup>8</sup>

#### XXIV. COMMISSIONER OF THREE PERCENT FUND (1836-43)

##### LEGAL STATUS

From 1836 until 1843 Fulton County had a commissioner of the 3 percent fund, appointed for an indefinite term by the board of commissioners.<sup>1</sup> He posted bond, approved by the board of commissioners, in the amount of \$1,000 before 1837 and in the amount of \$4,000 after 1837.<sup>2</sup>

##### FUNCTIONS AND RECORDS

By virtue of the compact between the United States and Indiana in 1816, the latter was to receive 3 percent of the net receipts of all public lands sold within its borders, to be used for the construction of public roads and canals within

<sup>6</sup> Acts 1828-29, ch. 84, sec. 13. Acts 1836-37 (general), ch. 2(2), secs. 8, 9. Rev. Stat. 1838, ch. 94(2), secs. 8, 9.

<sup>7</sup> Acts 1828-29, ch. 84, sec. 14. Rev. L. 1831, ch. 86, secs. 15, 52. Acts 1832-33, ch. 70, sec. 73. Acts 1836-37 (general), ch. 2(2), secs. 11, 13, 15. Rev. Stat. 1838, ch. 94(2), secs. 11, 13, 15.

<sup>8</sup> Acts 1848-49 (general), ch. 116, sec. 4.

<sup>1</sup> Acts 1832-33, ch. 58, secs. 2, 5, 7. Acts 1836-37 (general), ch. 35, secs. 2, 3. Rev. Stat. 1838, ch. 107 (first act), secs. 2, 3. Rev. Stat. 1843, ch. 7, sec. 32; ch. 13, sec. 121. Commissioners' Record, vol. A, pp. 13, 61, 97, 172, 238, *see* entry 2.

<sup>2</sup> Acts 1832-33, ch. 58, secs. 3, 11. Acts 1836-37 (general), ch. 35, sec. 2. Rev. Stat. 1838, ch. 107 (first act), sec. 2.

the State under the direction of the State Legislature.<sup>3</sup>

The 3 percent fund was apportioned, from time to time, by the Legislature to the various counties in the State;<sup>4</sup> and it was the duty of the commissioner of each county to superintend the expenditure of the money appropriated to his county for the construction of roads and bridges.<sup>5</sup>

The commissioner was required to keep an account of his expenditures and improvements, render a detailed statement of the receipts and expenditures, and make an annual report, on the condition of the fund, to the board of commissioners.<sup>6</sup>

In 1843 the General Assembly abolished the office of the commissioner of the 3 percent fund and transferred the duties of this office to the auditor and treasurer.<sup>7</sup>

## XXV. SURPLUS REVENUE AGENT (1837-43)

### LEGAL STATUS

From 1837 until 1843 Fulton County had a surplus revenue agent who was appointed annually by the State Legislature. He was required to be a qualified voter of the State at the time of his appointment. He posted a bond for double the amount of money to be entrusted to his care, which was approved by the board of commissioners and filed with the clerk of the circuit court.<sup>1</sup> The law provided that any vacancy in the office should be filled through appointment by the board of commissioners.<sup>2</sup>

### FUNCTIONS AND RECORDS

Under an act of Congress of June 23, 1836, surplus funds

<sup>3</sup> 3 U. S. Stat. 290 (law of 1816), 424 (law of 1818). James Edward Hagerty, "Early Financial History of Indiana," *Indiana History Bulletin* (1937), 14:268.

<sup>4</sup> Acts 1832-33, ch. 58, secs. 1, 4. Acts 1836-37 (general), ch. 35, sec. 1. Rev. Stat. 1838, ch. 107 (first act), sec. 1. Rev. Stat. 1843, ch. 13, sec. 121.

<sup>5</sup> Acts 1832-33, ch. 58, sec. 2. Acts 1836-37 (general), ch. 35, sec. 1; ch. 63, sec. 1. Rev. Stat. 1838, ch. 107 (first act), sec. 1.

<sup>6</sup> Acts 1832-33, ch. 58, sec. 7. Acts 1836-37 (general), ch. 55, sec. 1. Rev. Stat. 1838, ch. 107 (third act), secs. 1, 3.

<sup>7</sup> Rev. Stat. 1843, ch. 13, secs. 121-127; ch. 59.

<sup>1</sup> Acts 1836-37 (general), ch. 1, secs. 4, 25. Rev. Stat. 1838, ch. 89 (first act), sec. 4; ch. 89 (second act), see footnote 16 herein.

<sup>2</sup> Acts 1836-37 (general), ch. 1, secs. 18, 19. Rev. Stat. 1838, ch. 89 (first act), secs. 18, 19.

in the Federal Treasury were distributed as non-interest-bearing loans to the several States in proportion to their respective representation in Congress. The State Treasurer then sent a portion of this fund to each of the various counties for lending to citizens thereof with interest at 8 percent per annum. The interest was devoted to local school operation.<sup>3</sup>

The surplus revenue agent had custody of the surplus revenue funds aforesaid;<sup>4</sup> made loans from such funds to citizens residing in the county; charged interest on such loans at the rate of 8 percent per annum; published or posted notices from time to time stating what funds were available for lending;<sup>5</sup> valued all real property offered as security for such loans; ascertained that each loan was for an amount not exceeding 50 percent of the determined valuation;<sup>6</sup> satisfied himself that the title to the property was regularly and legally derived from the Federal Government or the State of Indiana and was unincumbered;<sup>7</sup> caused all mortgages to be recorded in the recorder's office;<sup>8</sup> made loans on personal security of two or more freeholders of undoubted responsibility;<sup>9</sup> made no loans for a term exceeding 3 years nor in an amount exceeding \$400 to one person;<sup>10</sup> collected interest annually in advance and paid the same to the county school commissioner for distribution to the several townships;<sup>11</sup> and foreclosed mortgages when necessary to collect loans.<sup>12</sup> All filing fees and other expense of making the loans were paid by the borrower.<sup>13</sup>

On forms furnished by the State Treasurer, the agent kept a register of the names, dates, and amounts of all mortgages taken by him, showing all payments of interest and principal thereon.<sup>14</sup> He made quarterly reports to the State

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<sup>3</sup> U. S. Stat. 5:52 (law of 1836). Acts 1836-37 (general), chs. 1, 51.

<sup>4</sup> Acts 1836-37 (general), ch. 89, secs. 1-3, 6. Rev. Stat. 1838, ch. 89 (first act), secs. 1-3, 6.

<sup>5</sup> *Ibid.* (both acts), sec. 7.

<sup>6</sup> *Ibid.* (both acts), secs. 8, 9.

<sup>7</sup> *Ibid.* (both acts), sec. 8.

<sup>8</sup> *Ibid.* (both acts), sec. 15.

<sup>9</sup> *Ibid.* (both acts), sec. 9.

<sup>10</sup> *Ibid.* (both acts), secs. 10, 11.

<sup>11</sup> *Ibid.* (both acts), secs. 9, 13.

<sup>12</sup> *Ibid.* (both acts), sec. 16.

<sup>13</sup> *Ibid.* (both acts), sec. 15.

<sup>14</sup> *Ibid.* (both acts), sec. 24.

Treasurer and the clerk of the circuit court, showing all transactions during the preceding quarter.<sup>15</sup>

In 1843 the General Assembly abolished this office and transferred the duties thereof to the county auditor.<sup>16</sup>

## XXVI. COUNTY AGENT (1836-52)

### LEGAL STATUS

From 1836 until 1852 Fulton County had a county agent who was appointed by the board of commissioners. He had no definite term of office before 1843. From 1843 until 1852 his term of office was 3 years. He was required to post a bond subject to approval of the appointing authority.<sup>1</sup> No county commissioner, auditor, treasurer, or clerk of the circuit court could serve as county agent.<sup>2</sup>

### FUNCTIONS AND RECORDS

The county agent performed various administrative duties delegated to him by the board of commissioners and was directly responsible to that board. He received conveyances of land given or sold for the use of the county, laid off such land into town lots, sold the lots, made conveyances, collected the money therefrom, and paid the same into the county treasury.<sup>3</sup>

The county library fund received 10 percent of all receipts from such sales.<sup>4</sup> From the remainder of said receipts the essential expenses and the price of purchased land were paid, and the balance was available for erection of necessary public buildings. Any remaining funds were applied as any other money in the treasury.<sup>5</sup>

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<sup>15</sup> *Ibid.* Rev. Stat. 1838, ch. 89 (second act,) sec. 7.

<sup>16</sup> Rev. Stat. 1843, ch. 13, sec. 95; ch. 59, sec. 4.

<sup>1</sup> Rev. L. 1831, ch. 85, secs. 8, 4. Rev. Stat. 1843, ch. 4, sec. 48. Commissioners' Record, Vol. A, pp. 8, 10, 29, 135, 424, 537, 645; B, pp. 13, 141, see entry 2.

<sup>2</sup> Rev. L. 1824, ch. 93, sec. 11. Rev. Stat. 1838, ch. 93, sec. 11. Rev. Stat. 1843, ch. 18, sec. 20.

<sup>3</sup> Rev. L. 1831, ch. 85, sec. 4. Rev. Stat. 1838, ch. 93, secs. 1, 4. Rev. Stat. 1843, ch. 19, sec. 12.

<sup>4</sup> Const. 1816, art. 9, sec. 5. Rev. L. 1831, ch. 59, sec. 9.

<sup>5</sup> See footnote 3 herein.



The county kept a record of sales and collections. Every 4 months, or sooner if required, he made a report to and financial settlement with the board of commissioners.<sup>6</sup>

In 1852 the General Assembly abolished this office and transferred the duties thereof to the county auditor.<sup>7</sup>

## XXVII. AUDITOR

### LEGAL STATUS

The office of auditor has existed in Fulton County ever since 1841 under the requirements of acts of 1841 and 1843, and the Constitution of 1851. The auditor is elected for a 4-year term by the voters of the county. Before 1851 he was elected for a 5-year term.<sup>1</sup> He is commissioned by the Governor of Indiana<sup>2</sup> and holds office until his successor is elected and qualified.<sup>3</sup> No person is eligible to hold the office more than 8 years in any 12-year period.<sup>4</sup>

The auditor must be an elector of the county at the time of his election; must have been an inhabitant thereof throughout the preceding year;<sup>5</sup> must reside within the county after his election; must not hold any other lucrative office; must not practice law;<sup>6</sup> must post bond in the amount of \$10,000, to be approved by the board of commissioners and filed with the clerk of the circuit court;<sup>7</sup> and must take an oath to

<sup>6</sup> Rev. L. 1831, ch. 85, secs. 6, 7. Rev. Stat. 1838, ch. 93, sec. 8. Rev. Stat. 1843, ch. 18, sec. 17.

<sup>7</sup> Acts 1851-52, ch. 2, sec. 1.

<sup>1</sup> Const. 1851, art. 6, sec. 2. Acts 1840-41 (general), ch. 2, sec. 1. 1 Rev. Stat. 1852; Burns 49-3001; Baldwin 5415. Jones v. Cavins, 4 Ind. 305 (1853).

<sup>2</sup> Const. 1851, art. 15, sec. 6. 1 Rev. Stat. 1852; Burns 49-201; Baldwin 13095.

<sup>3</sup> Const. 1851, art. 15, sec. 3. 1 Rev. Stat. 1852; Burns 49-3001; Baldwin 5415. Griebel v. State ex rel. Niezer, 111 Ind. 369, 12 N. E. 700 (1887).

<sup>4</sup> Const. 1851, art. 2, sec. 11; art. 6, sec. 2.

<sup>5</sup> *Ibid.*, art. 6, sec. 4. State ex rel. Jeffries v. Kilroy, 86 Ind. 118 (1882).

<sup>6</sup> Const. 1851, art. 2, sec. 9; art. 6, sec. 6. 1 Rev. Stat. 1852, ch. 8, sec. 9. Acts 1881 (Spec. Sess.), ch. 37, sec. 115. Acts 1905, 1941; Burns, 1941 suppl., 10-3102; Baldwin, 1941 suppl., 2636. State v. Allen, 21 Ind. 516 (1863); Wells v. State ex rel. Peden, 175 Ind. 380, 94 N. E. 321 (1911).

<sup>7</sup> Acts 1905; Burns 10-3708; Baldwin 2660. 1 Rev. Stat. 1852; Burns 49-104, 49-105, 49-120; Baldwin 13057, 13063, 13068. Acts 1889; Burns 49-3003; Baldwin 5417.

support the State and Federal Constitutions and faithfully discharge the duties of his office.<sup>8</sup>

The auditor receives a regular salary of \$2,320 per year.<sup>9</sup> In addition to his regular salary he receives an amount between \$40 and \$50 per year (fixed by the common council of Rochester) for services rendered for the city of Rochester. From 1907 until 1932, and in 1935 and 1936, he also received \$50 per year for acting as secretary of the board of finance of Fulton County. From 1919 until 1933 he received \$5 per day for each day actually served as a member of the county board of review.<sup>10</sup> He is not now entitled to retain, as compensation for himself, any fees which he collects.<sup>11</sup>

For sufficient legal causes the auditor may be removed from office by the circuit court, after trial by jury on an accusation presented by the grand jury or verified by the oath of any person.<sup>12</sup> If the auditor be convicted of a felony the judgment of conviction must declare the office vacant.<sup>13</sup>

Any vacancy in the office of auditor is filled through appointment by the board of commissioners. At the next biennial general election (held on the first Tuesday after the first Monday in November in the even-numbered years), an auditor is elected for the remainder of the term in which the vacancy occurred. The person appointed or elected to fill a vacancy must take oath and post bond, as was required of his predecessor; and he holds office until his successor is elected and qualified.<sup>14</sup>

<sup>8</sup> Const. 1851, art. 15, sec. 4. Acts 1905; Burns 10-3708; Baldwin 2660. 1 Rev. Stat. 1852; Burns 49-101; Baldwin 13054.

<sup>9</sup> Acts 1871, ch. 17, sec. 28. Acts 1933; Burns 49-1004; Baldwin 7534. Acts 1941; Burns 1941 suppl., 49-1021; Baldwin, 1941 suppl., 7534-1.

<sup>10</sup> Acts 1899, ch. 154, sec. 50. Acts 1907, ch. 222, sec. 7 (repealed by Acts 1935, ch. 70, sec. 42). Acts 1935, ch. 70, sec. 7 (repealed by Acts 1937, ch. 3, sec. 42). Acts 1933; Burns 48-1232, 48-1238, 49-1001, 49-1004; Baldwin 11413, 11417, 7531, 7534. Acts 1919, 1920 (Spec. Sess.); Burns 64-1201, 64-1204; Baldwin 15700, 15703. Board of County Comrs. v. Johnson, 127 Ind. 238 26 N. E. 821 (1891); Tucker v. State ex rel. Board of County Comrs., 163 Ind. 403, 71 N. E. 140 (1904); Board of County Comrs. v. Crowe, 214 Ind. 437, 446 (two cases), 14 N. E. (2d) 903, 907, 15 N. E. (2d) 1016 (1938). Op. Atty. Gen. 1934, p. 313; 1936, p. 130.

<sup>11</sup> Acts 1933; Burns 49-1005; Baldwin 7535. Workman v. State ex rel. Board of County Comrs., 165 Ind. 42, 73 N. E. 917 (1905).

<sup>12</sup> Const. 1851, art. 2, secs. 6, 7; art. 6, sec. 8. Acts 1897, 1899; Burns 49-821 to 49-834, 49-836; Baldwin 13154 to 13166, 13050, 13168. Acts 1875; Burns 49-837; Baldwin 13052.

<sup>13</sup> Acts 1897, 1899; Burns 49-834; Baldwin 13050.

<sup>14</sup> Const. 1851, art. 6, sec. 9. Acts 1881 (Spec. Sess.); Burns 29-701; Baldwin 7081. 1 Rev. Stat. 1852; Burns 49-405, 49-408, 49-409; Baldwin 13104, 13106, 13107. Douglass v. State ex rel. Wright, 31 Ind. 429 (1869). Gemmer v. State ex rel. Stephens,

The auditor may appoint one deputy and one or more assistants under authority from the board of commissioners. The county council fixes their salaries, which must be not less than \$75 nor more than \$125 per month.<sup>15</sup> The auditor may require the deputy to give bond.<sup>16</sup> The deputy must take the oath required of the auditor, may perform all the official duties of the auditor, and is subject to the same regulations and penalties.<sup>17</sup> The auditor may remove such deputy and assistants at any time and is responsible for their official acts.<sup>18</sup>

Most of the early duties of the auditor were transferred to him from the clerk of the circuit court,<sup>19</sup> and included the previous duties as clerk of the board doing county business,<sup>20</sup> as member of the boards performing duties similar to those of the present county board of review,<sup>21</sup> and duties concerning elections,<sup>22</sup> taxation, finance, county business,<sup>23</sup> and selection of petit jurors and grand jurors.<sup>24</sup>

From 1836 until 1852 Fulton County had a county agent whose duties (stated in a separate essay) were transferred to the auditor in 1852.<sup>25</sup>

#### FUNCTIONS AND RECORDS

The auditor is the financial agent of the county and the routine administration of county affairs centers in his office, through which all financial transactions are conducted, of which he keeps records.

163 Ind. 150, 71 N. E. 748 (1904). Op. Atty. Gen. 1936, p. 9.

Information obtained from Omer Stokes Jackson, Attorney General of Indiana, on July 11, 1939, by W. Davis Hamilton.

<sup>15</sup> 1 Rev. Stat. 1852, Acts 1855, 1925; Burns 49-501; Baldwin 13108. Acts 1933, 1935, 1937; Burns, 1941 suppl., 49-1002; Baldwin 1937 suppl., 7532. Op. Atty. Gen. 1934, p. 256; 1937, p. 324.

<sup>16</sup> 1 Rev. Stat. 1852, Acts 1855, 1925; Burns 49-501; Baldwin 13108.

<sup>17</sup> 1 Rev. Stat. 1852; Burns 49-502; Baldwin 13109.

<sup>18</sup> 1 Rev. Stat. 1852; Burns 49-503; Baldwin 13110. Acts 1933, 1935, 1937; Burns, 1941 suppl., 49-1002; Baldwin, 1937 suppl., 7532.

<sup>19</sup> Acts 1840-41 (general), ch. 2, sec. 54. Jones v. Cavins, 4 Ind. 305 (1853).

<sup>20</sup> Rev. L. 1831, ch. 20, sec. 6. Acts 1840-41 (general), ch. 2, secs. 8, 54. Rev. Stat. 1843, ch. 7, secs. 5, 16, 17, 53.

<sup>21</sup> Rev. L. 1831, ch. 81, secs. 5, 7, 8. Acts 1838-39 (general), ch. 14, 15. Acts 1840-41 (general), ch. 1, secs. 13, 18.

<sup>22</sup> Acts 1831, ch. 20, sec. 23. Rev. Stat. 1838, ch. 32, secs. 13, 19. Rev. Stat. 1843, ch. 5, sec. 103. Acts 1875, ch. 7, sec. 1. Acts 1881 (Spec. Sess.), ch. 47, sec. 13. Acts 1908 (Spec. Sess.), ch. 2, sec. 1. Acts 1911, ch. 7, sec. 5; 150, secs. 5, 13 (both sections repealed by Acts 1913, ch. 185, sec. 25).

<sup>23</sup> Rev. L. 1831, ch. 15, sec. 11; ch. 81, secs. 6, 7, 9, 33, 50. Rev. Stat. 1838, ch. 91, sec. 26; ch. 95, sec. 1. Acts 1840-41 (general), ch. 2, sec. 54.

<sup>24</sup> Acts 1841-42 (general), ch. 45, sec. 6. 2 Rev. Stat. 1852, ch. 9, sec. 1, p. 24. Acts 1853, ch. 59, sec. 1. These duties were discontinued in 1881. Acts 1881 (Spec. Sess.), 1899, 1913; Burns 4-3301, 4-3304, 4-3306; Baldwin 1266, 1267, 1270.

<sup>25</sup> See the essay entitled "County Agent (1836-52)."

He keeps a combined fee and cash book,<sup>26</sup> a monthly balance record, and a record of receipts, appropriations, and disbursements.<sup>27</sup> He keeps separate accounts for each specific item of appropriation by the county council<sup>28</sup> and an account current, with the treasurer, of county funds.<sup>29</sup>

The clerk of the circuit court, treasurer, sheriff, and recorder must make reports of fees to the auditor quarterly and at the expiration of their terms of office. The treasurer also makes a monthly report to the auditor showing the total amount of cash payments received by the treasurer during the month and the respective accounts to which such payments are applied. The clerk of the circuit court annually delivers to the auditor a list of all fines and jury fees collected during the preceding year, and also a list of all fees in his hands which have remained unclaimed for two years, and the auditor enters such lists in his register of receipts and issues a quietus for the items of such lists which have been paid over to the treasurer.<sup>30</sup>

Funds in the county treasury are disbursed on warrants drawn by the auditor on the county treasurer.<sup>31</sup> The auditor publishes a call for redemption of interest-bearing warrants, when money is available therefor.<sup>32</sup> Treasurer's receipts for payments other than for taxes are deposited by the payers with the auditor, who issues quietuses therefor.<sup>33</sup> All redeemed

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<sup>26</sup> Acts 1840-41 (general), ch. 2, sec. 27. Acts 1871, ch. 17, sec. 33. Acts 1891, ch. 194, sec. 124. Acts 1895; Burns 49-1401; Baldwin 7576.

<sup>27</sup> Required by order of State Board of Accounts. Information obtained from E. P. Brennan, State Examiner, on May 18, 1939, by W. Davis Hamilton.

<sup>28</sup> Acts 1899; Burns 26-523; Baldwin 5387.

<sup>29</sup> Acts 1840-41 (general), ch. 2, sec. 10. 1 Rev. Stat. 1852; Burns 49-3010; Baldwin 5423. Wells v. State ex rel. Board of County Comrs., 22 Ind. 241 (1864).

<sup>30</sup> Acts 1841-42 (general), ch. 45, sec. 3. Acts 1871, ch. 17, secs. 20, 23, 27, 31. Acts 1895, 1903, 1913; Burns 49-1402; Baldwin 7577. 2 Rev. Stat. 1852, Acts 1891; Burns 49-2710; Baldwin 1437. Acts 1919; Burns 64-2101; Baldwin 15802.

Such lists were entered in the "order book of the board of commissioners" (commonly known as the "Commissioners' Record") before the State Board of Accounts provided otherwise in 1909. Information obtained from E. P. Brennan, State Examiner, on March 7, 1940, by W. Davis Hamilton.

<sup>31</sup> Rev. Stat. 1843, ch. 7, secs. 76, 79. Acts 1899, 1935; Burns, 1941 suppl., 26-522; Baldwin, 1935 suppl., 5326. Acts 1889; Burns 49-3007; Baldwin 5420. 1 Rev. Stat. 1852; Burns 49-3103, 49-3111; Baldwin 5550, 5558. Acts 1937; Burns, 1941 suppl., 61-627; Baldwin, 1937 suppl., 13844-48.

<sup>32</sup> Acts 1889; Burns 49-3007, 49-3008; Baldwin 5420, 5421.

<sup>33</sup> Rev. Stat. 1843, ch. 7, sec. 77. 2 Rev. Stat. 1852, Acts 1891; Burns 49-2710; Baldwin 1437. 1 Rev. Stat. 1852; Burns 49-3010, 49-3104; Baldwin 5423, 5551.



or canceled warrants are deposited quarterly by the treasurer with the auditor, for permanent filing.<sup>34</sup>

When the auditor draws a warrant he charges it against the appropriation and particular fund under which it was drawn. Apportionment is made if more than one fund or appropriation is involved.<sup>35</sup> Records of the warrants are kept in the manner prescribed by the State Board of Accounts. Formerly the number, date, amount, name of payee, and purpose of the warrant were entered in a book as prescribed by statute.<sup>36</sup>

Before issuing a warrant or *quietus* the auditor must examine the account to ascertain whether it is correct and in proper form; and for this purpose may require the furnishing of information, vouchers, and exhibits sufficient to satisfy himself.<sup>37</sup> The action of *mandamus* lies to compel the auditor to draw a warrant on the county treasury.<sup>38</sup>

On claims allowed by courts for cost of administration of justice,<sup>39</sup> and on claims (including claims on judgments) allowed by the board of commissioners, the auditor issues his warrant.<sup>40</sup> But a warrant may be issued to pay a judgment, or for management of the school fund, or for expenses of insanity inquests, or for salaries or other liabilities for specific amounts fixed by law, when no claim therefor has been allowed as aforesaid.<sup>41</sup> The auditor issues warrants for allowances, awards, or assistance granted by the county welfare department when approved by the county welfare director. Claim for administrative expenses of the welfare

<sup>34</sup> Rev. Stat. 1843, ch. 7, secs. 79, 85. 1 Rev. Stat. 1852; Burns 49-3114; Baldwin 5561.

Information obtained from E. P. Brennan, State Examiner, on June 14, 1939, by W. Davis Hamilton.

<sup>35</sup> Acts 1899; Burns 26-544; Baldwin 5409.

<sup>36</sup> Rev. Stat. 1843, ch. 7, sec. 56. 1 Rev. Stat. 1852; Burns 49-3005; Baldwin 5419. Acts 1909; Burns 60-202; Baldwin 13855. Information obtained from E. P. Brennan, State Examiner, on August 15, 1939, by W. Davis Hamilton.

<sup>37</sup> Acts 1909; Burns 60-215; Baldwin 13866.

<sup>38</sup> *Gil v. State ex rel. Board of County Comrs.*, 72 Ind. 266 (1880).

<sup>39</sup> Acts 1921, 1935; Burns, 1941 suppl., 4-3107; Baldwin, 1935 suppl., 1256. Acts 1881 (Spec. Sess.), 1903, 1913, 1927, 1933; Burns 4-3319, 4-3407; Baldwin 1277, 1286. Acts 1921, 1939; Burns, 1941 suppl., 4-3507; Baldwin, 1939 suppl., 1298-1. Acts 1893; Burns 4-3511; Baldwin 1300. Acts 1905; Burns 9-1312 to 9-1315; Baldwin 2233 to 2236. 1 Rev. Stat. 1852; Burns 9-2408; Baldwin 1306. Acts 1899; Burns 26-515, 26-527, 26-816; Baldwin 5379, 5391, 5268. Acts 1931; Burns 26-817, 26-818; Baldwin 5269, 5270. Acts 1895, 1905, 1915, 1919; Burns 49-1311; Baldwin 7570. Acts 1879 (Spec. Sess.); Burns 49-1432, 49-1434; Baldwin 13127, 13128. 2 Rev. Stat. 1852; Burns 49-2709, 49-2804; Baldwin 1436, 5496.

<sup>40</sup> Rev. Stat. 1843, ch. 7, secs. 76, 79, Acts 1897; Burns 26-809; Baldwin 5257. Acts 1911; Burns 26-813, 26-814; Baldwin 5264, 5265.

<sup>41</sup> Acts 1897; Burns 26-809; Baldwin 5257. 1 Rev. Stat. 1852; Burns 49-3005; Baldwin 5419. *Blue v. State ex rel. Powell*, 210 Ind. 486, 1 N. E. (2d) 122 (1936).



department must be approved by the board of commissioners.<sup>42</sup> He issues warrants on the county treasurer for clothing for insane persons of the county committed to a State hospital on requisition of the superintendent thereof, when certified by the clerk of the circuit court.<sup>43</sup> A warrant not called for within 5 years after the allowance of the claim on which it was drawn may be canceled by the board of commissioners, if not called for after publication of notice.<sup>44</sup>

The auditor manages the school funds held in trust by the county,<sup>45</sup> with the exception of making loans. The county school fund board (composed of the auditor, clerk of the circuit court, and another person appointed by the judge of the circuit court) make all the loans from those funds.<sup>46</sup> Whenever a Congressional township is divided by a county line, the auditor makes all adjustments of land, accounts, and distribution of pupils.<sup>47</sup> The auditor conducts the sale of school lands<sup>48</sup> (including those previously sold and forfeited by the purchaser's thereof).<sup>49</sup> The auditor issues a quitclaim deed whenever there is a defect in the title of the owner of land in a school section resulting from destruction of public records.<sup>50</sup> He supervises unsold saline lands.<sup>51</sup>

Funds held by the county in trust for cemetery purposes are managed and loaned by the auditor in the manner provided by law for school funds.<sup>52</sup>

Annually the auditor reports to the State Examiner the financial condition of the county and the school funds charged to it.<sup>53</sup>

<sup>42</sup> Acts 1936 (Spec. Sess.); Burns, 1941 suppl., 52-1124; Baldwin, 1937 suppl., 14078-24.

Op. Atty. Gen. 1936, p. 440.

<sup>43</sup> Acts 1927, 1933; Burns 22-1215, 22-1216; Baldwin 4307, 4308. *Morris v. State ex rel. Brown*, 96 Ind. 597 (1884).

<sup>44</sup> Acts 1879 (Spec. Sess.); Burns 26-815; Baldwin 5273.

<sup>45</sup> Acts 1848-49 (general), ch. 116, sec. 4. Acts 1855, ch. 86, sec. 155. Acts 1861, ch. 41, secs. 122, 160. Acts 1865, 1907; Burns 28-101, 28-102; 28-105; Baldwin 6499, 6500, 6511.

<sup>46</sup> Rev. Stat. 1843, ch. 13, sec. 45. Acts 1865, 1935; Burns, 1941 suppl., 28-209; Baldwin, 1935 suppl., 6558. See the essay entitled "County School Fund Board."

<sup>47</sup> Acts 1877 (Spec. Sess.); Burns 28-111 to 28-114; Baldwin 6518 to 6520, 6510.

<sup>48</sup> Acts 1848-49 (general), ch. 116, sec. 4. Acts 1865, 1875; Burns 28-122 to 28-124; Baldwin 6553, 6528, 6529.

<sup>49</sup> Acts 1851-52, ch. 2, sec. 2. Acts 1863, 1865; Burns 28-125, 28-126, 28-129 to 28-133, 28-135 to 28-137, 28-140 to 28-143, 28-145, 28-146; Baldwin 6530, 6531, 6538, 6539, 6534, 6535, 6540, 6542 to 6544, 6547 to 6550, 6552, 6554.

<sup>50</sup> Acts 1915; Burns 28-239; Baldwin 5435.

<sup>51</sup> 1 Rev. Stat. 1852; Burns 62-201; Baldwin 15255.

<sup>52</sup> Acts 1915; Burns 21-214, 21-217; Baldwin 4668, 4674.

<sup>53</sup> Acts 1909; Burns 60-204; Baldwin 13657.

Formerly the board of commissioners met in the auditor's office and audited the warrants of all township trustees in the county. These warrants and the board's decision thereon were registered by the auditor in a book kept for that purpose.<sup>54</sup>

The auditor keeps an account with each township showing expenditures and tax levies for poor relief; keeps reports of public welfare officials; and keeps records of county welfare funds and disbursements (including old-age assistance certificates).<sup>55</sup>

A copy of the annual report (accompanied by vouchers) of each township trustee to the township advisory board is filed in the auditor's office.<sup>56</sup> Annually the township trustees report to the auditor the amount of claims in the several townships for livestock, fowls, or game destroyed or damaged by dogs; and the auditor annually reports to the Auditor of State the amount of all such claims remaining unpaid for lack of funds.<sup>57</sup> Quarterly each county official reports to the auditor all humane fund fees collected by him.<sup>58</sup>

The auditor compiles budget estimates made by the county officers and boards; keeps them on file for 1 month subject to inspection by any taxpayer; and submits them with his recommendations to the county council at its annual meeting.<sup>59</sup>

The auditor certifies to the city officials the number of taxable polls in the city,<sup>60</sup> and adds omitted polls to the tax duplicate.<sup>61</sup>

In each township having a population not exceeding 5,000 (all townships except Rochester), the office of township assessor has been abolished, and the duties of such office are performed

<sup>54</sup> Acts 1897, ch. 144, secs. 1, 2.

<sup>55</sup> Acts 1895, ch. 120, sec. 2. Acts 1897, ch. 151, sec. 1 (repealed by Acts 1901, ch. 147, sec. 39). Acts 1901, ch. 147, secs. 11, 12, 19, 20 (all repealed by Acts 1935, ch. 116, sec. 38). Acts 1907, ch. 161, sec. 1 (repealed by Acts 1935, ch. 116, sec. 38). Acts 1935; Burns, 1941 suppl., 52-158; Baldwin, 1935 suppl., 13320-15. Acts 1936 (Spec. Sess.), 1941; Burns, 1941 suppl., 52-1407; Baldwin, 1941 suppl., 14078-38. Acts 1936 (Spec. Sess.); Burns, 1941 suppl., 52-1402; Baldwin, 1937 suppl., 14078-114.

<sup>56</sup> Acts 1899, 1901; Burns 65-318; Baldwin 16075.

<sup>57</sup> Acts 1927, ch. 176, sec. 10. Acts 1929, ch. 58, sec. 1. Acts 1937; Burns, 1941 suppl., 16-327; Baldwin, 1937 suppl., 3811-11.

<sup>58</sup> Acts 1881; Burns 5-1803; Baldwin 1874. Acts 1913; Burns 9-2502, 9-2503; Baldwin 3803, 3804. Acts 1909; Burns 60-214; Baldwin 13865.

<sup>59</sup> Acts 1899; Burns 26-516 to 26-520; Baldwin 5380 to 5384. Acts 1919, 1920 (Spec. Sess.), 1921, 1927, 1935; Burns, 1941 suppl., 64-1331, 64-1339; Baldwin, 1935 suppl., 15735, 15737-1

<sup>60</sup> Acts 1905, 1911; Burns 48-6708; Baldwin 11516.

<sup>61</sup> Acts 1919; Burns 64-2102; Baldwin 1580.

by the township trustee. Reference herein to the township assessor includes the township trustee performing the duties prescribed by statutes for township assessors.<sup>62</sup>

The auditor takes a very important part in the administration of the property tax laws. Annually the township assessors file with the auditor all returns of real and personal property made by them, together with all assessment lists, schedules, statements, maps, and other books and papers used by them in making such returns; and the county assessor obtains the same from the auditor to perform the county assessor's duties, but returns them to the auditor for permanent filing.<sup>63</sup> If a taxpayer refuses to make a personal property tax return or an oath required by law in connection with the assessment of personal property, the auditor adds 50 percent to the personal property valuation returned by the assessor.<sup>64</sup> If a landowner fails to furnish a list of lands and improvements within 5 days after a township assessor has so requested, the auditor must add 25 percent to the valuation of any lands or improvements listed by the assessor and which were not assessed the previous year.<sup>65</sup> The auditor assesses omitted property, after giving notice to the taxpayer, but cannot increase property assessment valuations made by assessors even if purposely undervalued.<sup>66</sup> For the purpose of the listing and assessment of omitted property, the auditor may, on filing proper affidavit in the circuit court and obtaining a writ directed to the sheriff, inspect the books and papers of taxpayers.<sup>67</sup> He receives assessors' reports concerning efforts to conceal property from taxation and transmits the same to the board of review.<sup>68</sup> Acting for the county board of review,

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<sup>62</sup> Acts 1933; 64-103, Baldwin 15664.

<sup>63</sup> Rev. Stat. 1843, ch. 12, secs. 28, 41. Acts 1850-51 (general), ch. 5, secs. 12, 19; ch. 9, secs. 5, 8. Acts 1858 (Spec. Sess.), ch. 2, sec. 20. Acts 1891, ch. 99, secs. 101, 105. Acts 1919; Burns 64-1029, 64-1029, 64-1102; Baldwin 15689, 15694, 15698. Acts 1919, 1925, 1927, 1935, 1937; Burns, 1941 suppl., 64-1019; Baldwin, 1937 suppl., 15685. Information obtained from E. P. Brennan, State Examiner, on May 18, 1939, by W. Davis Hamilton.

<sup>64</sup> Acts 1919; Burns 64-610; Baldwin 15578.

<sup>65</sup> Acts 1919; Burns 64-1008; Baldwin 15674.

<sup>66</sup> Acts 1840-41 (general), ch. 1, sec. 9. Acts 1889, ch. 183, sec. 1. Acts 1919; Burns 64-1402; Baldwin 15739. Crowder v. Riggs, 153 Ind. 158, 53 N. E. 1019 (1899); Parkinson v. Thompson, 164 Ind. 609, 73 N. E. 109 (1905); Darnell v. State, 174 Ind. 143, 90 N. E. 769 (1910).

<sup>67</sup> Acts 1891, ch. 99, sec. 34. Acts 1919; Burns 64-1026; Baldwin 15549.

<sup>68</sup> Op. Atty. Gen. 1892, p. 70.

the auditor gives notice to taxpayers in order that the board may assess omitted property or raise valuations.<sup>69</sup> Appeals from the county board of review to the State Board of Tax Commissioners are usually heard in the office of the auditor.<sup>70</sup> Formerly the auditor annually notified all township assessors to meet in the auditor's office to agree on a uniform rate of assessment.<sup>71</sup> Formerly railroad companies annually filed with the auditor, for taxation purposes, complete inventories of assets.<sup>72</sup>

The auditor annually makes out, and delivers to the township assessors, lists of lands entered on the tax duplicates of the previous year, with notations thereon showing all transfers made subsequent to the duplicate and all new entries of land not previously entered for taxation. The auditor makes plats of the several townships showing ownership, improvements, and assessed valuation of the parcels therein. The township assessors write on such plats the ownership and value of each plot of ground and the improvements thereon, and the plat is kept up with all current transactions and transfers.<sup>73</sup> The auditor keeps a record of all lands classified by the State Forester as "forest plantations" or "native forest lands" to obtain special rules or rates for tax assessments.<sup>74</sup>

For taxation purposes, the auditor keeps a transfer book, arranged by townships, cities, and towns, showing description of all lands conveyed by deed or partition, names of parties, and post-office addresses of grantees. No such conveyance can be recorded by the recorder until after the instrument has been presented to the auditor and he has made an endorsement thereon that the land has been duly entered for taxation or is not taxable.<sup>75</sup> On the death of a landowner, the heir or devi-

<sup>69</sup> Acts 1919, 1920 (Spec. Sess.); Burns 64-1201; Baldwin 15700.

<sup>70</sup> Acts 1919, 1935; Burns, 1941 suppl., 64-1321; Baldwin, 1935 suppl., 15725. Indiana Tax board, *Tax Rule 6*.

<sup>71</sup> Acts 1889, ch. 108, sec. 1 (repealed by Acts 1891, ch. 99, sec. 259).

<sup>72</sup> Acts 1891, ch. 99, sec. 83.

<sup>73</sup> Acts 1840-41 (general), ch. 1, sec. 4; ch. 2, sec. 12. Acts 1841-42, ch. 60, sec. 4. Rev. Stat. 1843, ch. 12, sec. 27. Acts 1858 (Spec. Sess.), ch. 2, sec. 5. Acts 1891, ch. 99, sec. 93. Acts 1919, 1937; Burns, 1941 suppl., 64-1007; Baldwin, 1937 suppl., 15672.

<sup>74</sup> Acts 1899, ch. 256, sec. 9. Acts 1921; Burns 32-304, 32-306; Baldwin 15517-4, 15517-6.

<sup>75</sup> Rev. Stat. 1843, ch. 12, secs. 23, 25, 26. Acts 1881 (Spec. Sess.), ch. 96, sec. 154. 1 Rev. Stat. 1852; Burns 49-3214; Baldwin 5478, Acts 1919; Burns 64-1409; Baldwin 15746.



see may have the auditor make an entry on the tax duplicate to show the change of ownership.<sup>76</sup> The auditor corrects on the tax books any errors as to description of property and names of owners.<sup>77</sup>

Forms and instructions for taxation purposes are prescribed by the State Board of Tax Commissioners and delivered to the auditor.<sup>78</sup> The auditor furnishes the township assessors with all necessary books and blanks for their use in making assessment of real and personal property.<sup>79</sup> Assessments of omitted real estate by township assessors are filed with the auditor.<sup>80</sup> The auditor makes assessment of any newly platted land additions to any city or town.<sup>81</sup>

The auditor certifies as to the required number of signers of petitions filed by groups of taxpayers with the State Board of Tax Commissioners to obtain a reassessment of real estate.<sup>82</sup>

Sworn statements and applications to obtain tax exemptions authorized by law (including mortgage deductions) are filed with the auditor, who refers them to the county board of review for approval.<sup>83</sup>

Annually the auditor apportions the final assessment of real and personal property among the several taxing units of the county and certifies the same to the county, townships, cities, and towns for the purpose of making tax levies based thereon.<sup>84</sup> After the county council, at its annual meeting, adopts a budget, establishes a tax rate, and makes tax levies for the succeeding calendar year, the auditor schedules the

<sup>76</sup> Acts 1921; Burns 64-519; Baldwin 14777.

<sup>77</sup> Acts 1919, 1925, 1927, 1935, 1937; Burns, 1941 suppl., 64-1019; Baldwin, 1937 suppl., 15685. Acts 1919, 1925, 1941 suppl., 64-1407; Baldwin, 1941 suppl., 15744.

<sup>78</sup> Acts 1919; Burns 64-2803; Baldwin 15668. *Thirty-ninth Annual Conference of Indiana Tax Board*, pp 22-30, 53, 54, 102, 103, 123-139.

<sup>79</sup> Acts 1858 (Spec. Sess.), ch. 2, sec. 23. Acts 1891, ch. 99, secs. 53, 101. Acts 1903, ch. 29, sec. 32. Acts 1899; Burns 26-543; Baldwin 5408. Acts 1895; Burns 49-1401; Baldwin 7576. Acts 1879 (Spec. Sess.); Burns 49-3018; Baldwin 5434. Acts 1919; Burns 64-1007, 64-1016; Baldwin 15672, 15682.

<sup>80</sup> Acts 1840-41 (general), ch. 2, sec. 12. Acts 1919, 1925, 1927, 1935, 1937; Burns, 1941 suppl., 64-1019; Baldwin, 1937 suppl., 15685. Acts 1919; Burns 64-1025; Baldwin 15692.

<sup>81</sup> Acts 1919; Burns 64-1027; Baldwin 15691.

<sup>82</sup> Acts 1919, 1925, 1927, 1935, 1937; Burns, 1941 suppl., 64-1019(a); Baldwin, 1937 suppl., 15685(a).

<sup>83</sup> Tax exemption in general. Acts 1937; Burns, 1941 suppl., 64-213; Baldwin, 1937 suppl., 15518-2. Disabled veterans. Acts 1927; Burns 64-206; Baldwin 10987.

Mortgage deductions. Acts 1899, ch. 190, secs. 2, 3. Acts 1919, 1939; Burns, 1941 suppl., 64-209 to 64-211; Baldwin, 1939 suppl., 15565 to 15567. *Thirty-eighth Annual Conference of Indiana Tax Board*, pp. 64-74.

<sup>84</sup> Acts 1919, 1920 (Spec. Sess.); Burns 64-1329; Baldwin 15733.



rates for the county and the several municipal corporations therein, verifies the figures and calculations, and reports the levies to the Indiana Tax Board.<sup>85</sup> The decision of the Indiana Tax Board on an appeal from the county council's action in adopting budgets and tax levies is certified to the auditor and he certifies it to the taxing units interested therein.<sup>86</sup>

Annually each municipal corporation of the county files with the auditor a statement of tax levies and rates for the ensuing year, fixed by such municipal corporation, and copies of the budgets on which such levies are based.<sup>87</sup> At the annual meeting of the county board of tax adjustment, the auditor lays before the board these budgets, tax levies, and rates.<sup>88</sup> If the board of tax adjustment does not complete its duties before October 2, or fails to reduce the aggregate amount of tax levies and rates within the statutory limits, the auditor calculates and fixes the rates and certifies his action to each municipal corporation.<sup>89</sup> The decision of the Indiana Tax Board on an appeal from the action of the board of tax adjustment is certified to the auditor.<sup>90</sup>

The auditor certifies to the Indiana Tax Board all emergency appropriations made by the county council, together with tax levies based thereon.<sup>91</sup>

After the assessments, budgets, tax rates, and tax levies have been made, the auditor makes out and delivers to the treasurer a roll of taxes known and designated as the tax duplicate, and a complete tax abstract of all property listed in each township, city, and town. He keeps a copy of the abstract in his office and delivers another copy thereof to the Auditor of State.<sup>92</sup> Semiannually the county auditor delivers

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<sup>85</sup> Acts 1889; Burns 26-516 to 26-520; Baldwin 5380 to 5384. Acts 1920 (Spec. Sess.); Burns 64-1329; Baldwin 15733. Acts 1919; Burns 64-1330; Baldwin 15734. Acts 1919, 1920 (Spec. Sess.), 1921, 1927, 1935; Burns, 1941 suppl., 64-1331; Baldwin, 1935 suppl., 15735.

<sup>86</sup> Acts 1919, 1920 (Spec. Sess.), 1921, 1927, 1935; Burns, 1941 suppl., 64-1331; Baldwin, 1935 suppl., 15735.

<sup>87</sup> Acts 1933; Burns 64-302; Baldwin 15893. Acts 1937; Burns, 1941 suppl., 64-311; Baldwin, 1937 suppl., 15897-5.

<sup>88</sup> Acts 1937; Burns, 1941 suppl., 64-310; Baldwin, 1937 suppl., 15897-4.

<sup>89</sup> Acts 1937; Burns, 1941 suppl., 64-311, 64-314; Baldwin, 1937 suppl., 15897-5, 15897-8.

<sup>90</sup> Acts 1937; Burns, 1941 suppl., 64-314; Baldwin, 1937 suppl., 15897-8.

<sup>91</sup> Act 1919, 1920 (Spec. Sess.), 1921, 1927, 1935; Burns, 1941 suppl., 64-1331; Baldwin, 1935 suppl., 15735.

<sup>92</sup> Acts 1840-41 (general), ch. 1, secs. 12, 14; ch. 2, secs. 17, 22. Rev. Stat. 1843, ch. 12, secs. 44, 50, 51, 133. Acts 1919; Burns 64-1403, 64-1408; Baldwin 15740, 15745. Standard Oil Co. v. Bretz, 98 Ind. 231 (1884); Adams v. Davis, 109 Ind. 10, 9 N. E. 162 (1886); Smith v. Smith, 159 Ind. 388, 65 N. E. 183 (1902).

to the county treasurer and to the the treasurer of each city, town, and township in the county, a complete list of all persons reported as delinquent in the payment of taxes, as shown by the tax duplicate.<sup>93</sup> Formerly a separate list of delinquent taxes was delivered by the county auditor to the Auditor of State, but now, and for many years last past, the only lists so delivered are those that are set forth in the tax abstract.<sup>94</sup>

The auditor furnishes, on or before June 1 and December 1 of each year, to the county treasurer of his county, the names and addresses of all officers, deputies, and employees of the county; receives statements from the county treasurer showing all delinquent taxes owing by them; deducts from the amounts due them for salary or compensation a sum equal to 10 percent in excess of \$15 per week, until such delinquent taxes are paid in full; issues warrants for the remainder to such officers, deputies, or employees; and issues statements and warrants to the county treasurer for the amount of such deduction.<sup>95</sup>

The auditor annually prepares and records in a book, provided for that purpose, a list of lands delinquent for taxes, charges the interest and penalty required by law, publishes and posts the list with a notice of tax sale, includes a copy of the notice in his record, and certifies on his record the time and manner of such publication and posting.<sup>96</sup> The auditor attends the treasurer's tax sales of delinquent lands, keeps a record of the sales, and issues certificates to the purchasers.<sup>97</sup> The auditor acts as arbiter in case of partial redemption of lands from tax sale.<sup>98</sup> When lands are redeemed from tax sale, he issues a certificate of redemption and keeps

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<sup>93</sup> Rev. Stat. 1843, ch. 12, sec. 68. Acts 1911, ch. 234, sec. 1. Acts 1919; Burns 64-1505; Baldwin 15767.

<sup>94</sup> Rev. Stat. 1843, ch. 12, sec. 68. Information obtained from Frank G. Thompson, Auditor of State, on June 29, 1939, by W. Davis Hamilton.

<sup>95</sup> Acts 1911, ch. 234. Acts 1919, 1941; Burns, 1941 suppl., 64-1505, 64-1506; Baldwin, 1941 suppl., 15767, 15768.

<sup>96</sup> Acts 1840-41 (general), ch. 2, secs. 26, 28-30. Acts 1879 (Spec. Sess.), ch. 96, sec. 3. Acts 1883, ch. 76, sec. 1. Acts 1919; Burns 64-2201; Baldwin 15806. Acts 1919, 1931, 1937; Burns, 1941 suppl., 64-2202; Baldwin, 1937 suppl., 15807. Abbott v. Edgerton, 53 Ind. 196 (1876); Stropes v. Board of County Comrs., 72 Ind. 42 (1880).

<sup>97</sup> Acts 1840-41 (general), ch. 2, secs. 33, 34. Rev. Stat. 1843, ch. 12, secs. 97, 122, 123. 1 Rev. Stat. 1852, ch. 6, sec. 177. Acts 1919; Burns 64-2209, 64-2210; Baldwin 15816, 15817. Gable v. Seiben, 137 Ind. 155, 36 N. E. 844 (1894).

<sup>98</sup> Acts 1919; Burns 64-2308; Baldwin 15826.

a record of all redemptions.<sup>99</sup> The auditor executes all tax deeds of land, and keeps a record thereof.<sup>100</sup> On authorization by the board of commissioners he issues a warrant for a refund to persons paying illegal or erroneous taxes and also to purchasers at illegal tax sales.<sup>101</sup> Annually a list of lands offered at tax sale 3 years successively, on which there was no bid equal to the amount of taxes due thereon, is prepared by the treasurer, certified by the auditor, and delivered to the prosecuting attorney.<sup>102</sup>

The State's share of taxes collected by the county treasurer is disbursed to the proper State officers on warrants drawn by the auditor on the county treasury.<sup>103</sup>

The auditor certifies to the treasurer the amount of excise tax due from financial institutions.<sup>104</sup> For excise tax purposes, each financial institution delivers to the auditor monthly statements showing the number of its shares, amount of deposits, and kindred information.<sup>105</sup> The auditor is authorized to examine the records of the recorder and clerk of the circuit court to ascertain whether all persons have paid intangible taxes; and for this purpose may interrogate any person under oath and examine private records of such person.<sup>106</sup>

The excise tax on dogs and dog kennels is administered by the township assessors and the county auditor.<sup>107</sup>

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<sup>99</sup> Rev. Stat. 1843, ch. 12, secs. 97, 122, 123. Acts 1919; Burns 64-2313; Baldwin 15831.

<sup>100</sup> Acts 1840-41 (general), ch. 2, secs. 37, 44. Acts 1919; Burns 64-2403 to 64-2409; Baldwin 15811, 15833 to 15838. Reid v. State ex rel. Thompson, 74 Ind. 252 (1881); Smith v. Kyler, 74 Ind. 575 (1881); Woolen v. Rockefeller, 81 Ind. 208 (1881); Lancaster v. De Hadway, 97 Ind. 565 (1884); Rowe v. Peabody, 102 Ind. 198, 1 N. E. 353 (1885).

<sup>101</sup> Acts 1919; Burns 64-1407, 64-2411, 64-2819; Baldwin 15744, 15840, 15881. Acts 1923; Burns 64-2823; Baldwin 15883. Wolfe v. State ex rel. Kennard, 90 Ind. 16 (1883).

<sup>102</sup> Acts 1881 (Spec. Sess.), ch. 96, sec. 222. Acts 1919; Burns 64-1518; Baldwin 15772.

<sup>103</sup> Acts 1877, ch. 90, sec. 1. Acts 1907, 1911; Burns 61-620; Baldwin 13824 (repealed by Acts 1935, ch. 70, sec. 42). Acts 1937; Burns, 1941 suppl., 61-626; Baldwin, 1937 suppl., 13844-47.

<sup>104</sup> Acts 1933; Burns 64-810; Baldwin 15591.

<sup>105</sup> Acts 1933, 1935; Burns, 1941 suppl., 64-807; Baldwin, 1935 suppl., 15588.

<sup>106</sup> Acts 1933; Burns 64-917; Baldwin 15915.

<sup>107</sup> Acts 1897, ch. 119. Acts 1925, ch. 144 (repealed by Acts 1927, ch. 176, sec. 14). Acts 1927, ch. 176 (repealed by Acts 1937, ch. 133, sec. 16). Acts 1923; Burns 16-301, 16-302; Baldwin 3826, 3827. Acts 1937; Burns, 1941 suppl., 16-317; Baldwin, 1937 suppl., 3811-1. Finerty v. State ex rel. School City of Gary, 213 Ind. 470, 12 N. E. (2d) 941 (1938).

The auditor issues licenses for peddlers, shows, theaters,<sup>108</sup> transient merchants,<sup>109</sup> and public warehouses.<sup>110</sup> He approves and files bonds of ferrymen<sup>111</sup> and records their licenses.<sup>112</sup> Formerly he issued licenses for the sale of liquor<sup>113</sup> and foreign merchandise as directed by the board of commissioners,<sup>114</sup> and filed remonstrances against issuance of saloon licenses by the board of commissioners.<sup>115</sup>

The auditor prepares the ditch duplicate showing special assessments against lands for construction or repair of ditches and drains,<sup>116</sup> and releases such liens after expiration or payment thereof.<sup>117</sup> Assessments for levees and flood gates<sup>118</sup> and for the cutting or eradicating of Canada thistles<sup>119</sup> are placed on the tax duplicate by him. Formerly petitions for drainage and levee improvements were filed with the auditor and he gave notice to viewers and kept a record of all proceedings concerning such improvements.<sup>120</sup>

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<sup>108</sup> 1 Rev. Stat. 1852; Burns 42-204; Baldwin 10447. Acts 1917, 1937; Burns, 1941 suppl., 42-201; Baldwin, 1937 suppl., 10443. Acts 1901; Burns 42-502, 42-503; Baldwin 10470, 10471. Acts 1895; Burns 42-510; Baldwin 10478.

<sup>109</sup> Acts 1901; Burns 42-402; Baldwin 10491. The auditor keeps a record of such licenses in a book provided for that purpose, and it is open for public inspection. *Ibid.*

<sup>110</sup> Acts 1875, 1879 (Spec. Sess.); Burns 67-201; Baldwin 16206.

<sup>111</sup> Rev. L. 1831, ch. 38, sec. 5. Acts 1881 (Spec. Sess.); Burns 36-2504; Baldwin 7679.

1 Rev. Stat. 1852, Acts 1855; Burns 36-2607; Baldwin 7697.

<sup>112</sup> Acts 1881 (Spec. Sess.); Burns 36-2610; Baldwin 7700.

<sup>113</sup> Rev. L. 1824, ch. 107, secs. 1, 3. Acts 1853, ch. 66, sec. 3 (repealed by Acts 1855, ch. 106, secs. 1, 2). Acts 1855, ch. 105, sec. 4 (repealed by Acts 1858 (Spec. Sess.), ch. 15). Acts 1873, ch. 59, sec. 2. Padgett v. State, 93 Ind. 396 (1884).

<sup>114</sup> Rev. L. 1831, ch. 21, sec. 7. Rev. Stat. 1838, ch. 22, sec. 7 *et seq.* Rev. Stat. 1843, ch. 12, sec. 165 *et seq.*

<sup>115</sup> Acts 1905, ch. 6, sec. 1.

<sup>116</sup> Acts 1881 (Spec. Sess.), ch. 43, sec. 5 (repealed by Acts 1885 (Spec. Sess.), ch. 40, sec. 13). Acts 1933; Burns 27-134; Baldwin 5770. Storms v. Stevens, 104 Ind. 46, 3 N. E. 401 (1885); Lockwood v. Ferguson, 105 Ind. 380, 5 N. E. 3 (1886); Board of County Comrs., v. Fahlor, 114 Ind. 176, 15 N. E. 830 (1888).

<sup>117</sup> Acts 1941; Burns, 1941 suppl., 27-140; Baldwin, 1941 suppl., 5771-1.

<sup>118</sup> Acts 1903; Burns 27-703; Baldwin 5841. Acts 1907, 1919, 1941; Burns, 1941 suppl., 27-809; Baldwin, 1941 suppl., 10218.

<sup>119</sup> Acts 1929, 1937; Burns, 1941 suppl., 15-904; Baldwin; 1937 suppl., 3719.

<sup>120</sup> Acts 1881 (Spec. Sess.), ch. 44 sec. 2 (repealed by Acts 1885 (Spec. Sess.), ch. 40, sec. 13). Acts 1891, ch. 196, secs. 2, 24. Acts 1897, ch. 138, secs. 1, 4. Simonton v. Hays, 88 Ind. 70 (1882); Vizzard v. Taylor, 97 Ind. 90 (1884); White v. Fleming, 114 Ind. 560, 16 N. E. 487 (1888); Cooper v. Ray, 148 Ind. 328, 47 N. E. 668 (1897).



The board doing county business has always had power to establish, construct, repair, and vacate county roads.<sup>121</sup> The auditor, being clerk of said board, has, accordingly, kept a record of road proceedings.<sup>122</sup> Road petitions are filed with the auditor for presentment to the board of commissioners.<sup>123</sup> When road viewers are appointed by the board, the auditor notifies the viewers and the county surveyor of their appointment and the time and place for their meeting.<sup>124</sup> Reports of road viewers are filed with the auditor and he enters road assessments on the tax duplicate or special assessment roll.<sup>125</sup> The county highway supervisor files with the auditor requisitions for all tools, implements, supplies, materials, and equipment needed for county roads.<sup>126</sup> Formerly the auditor annually delivered to the road supervisor a list of landowners of the county<sup>127</sup> and annually delivered to each township trustee a list of all road taxes assessed against each individual in the township.<sup>128</sup>

Certified copies of the official oaths of all officers appointed by the board of commissioners, together with certified copies of oaths of such township officers (except justices of the peace and constables) as required by the board, are filed with the auditor.<sup>129</sup> When a bond is required of any such officer, it also is filed with the auditor.<sup>130</sup> The

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<sup>121</sup> Rev. L. 1831, ch. 20, sec. 22; ch. 82; secs. 1, 4, 6, 12, 14, 28, 47. 1 Rev. Stat. 1852, ch. 48. Acts 1861 (Spec. Sess.), chs. 61-64. Acts 1905, 1907; Burns 36-201 *et seq.*; Baldwin 8756 *et seq.* Acts 1919; Burns 36-301 *et seq.*; Baldwin 1859 *et seq.* Acts 1907; Burns 36-401 *et seq.*; Baldwin 8992 *et seq.* Acts 1919; Burns 36-501 *et seq.*; Baldwin 8879 *et seq.* Acts 1933; Burns 36-1101 *et seq.*; Baldwin 8699 *et seq.*

<sup>122</sup> Acts 1921; Burns 36-1451; Baldwin 8954. Acts 1905; Burns 36-1222; Baldwin 8823.

<sup>123</sup> Acts 1919, 1921; Burns 36-304; Baldwin 8862.

<sup>124</sup> Acts 1895, ch. 11, sec. 1. Acts 1905, 1907; Burns 36-1301; Baldwin, 8787. *Turpin v. Eagle Creek & L. W. L. G. R. Co.*, 48 Ind. 45 (1874).

<sup>125</sup> Acts 1869 (Spec. Sess.), ch. 35, sec. 3 (repealed by Acts 1929, ch. 215, sec. 73). Acts 1877, ch. 46, sec. 3. Acts 1905, 1907; Burns 36-1301, 36-1305; Baldwin 8787, 8791. Acts 1921; Burns 36-1412; Baldwin 8915. *Florer v. McAfee*, 135 Ind. 540, 35 N. E. 277 (1893); *Smyth v. State ex rel. Braun*, 158 Ind. 332, 62 N. E. 449 (1902).

<sup>126</sup> Acts 1935; Burns, 1941 suppl., 36-1114; Baldwin, 1935 suppl., 8703-1.

<sup>127</sup> Rev. Stat. 1843, ch. 16, sec. 105.

<sup>128</sup> Acts 1883, ch. 56, sec. 20.

<sup>129</sup> Rev. Stat. 1843, ch. 4, sec. 84. 1 Rev. Stat. 1852; Burns 49-104; Baldwin 13057.

<sup>130</sup> Rev. Stat. 1843; ch. 4, secs. 88, 89. 1 Rev. Stat. 1852; Burns 49-104, 49-105; Baldwin 13057, 13063.

Bond of township trustee. Op. Atty. Gen. 1939, pp. 7, 8.



board of commissioners meets in the office of the auditor, at any time without notice or precept, for the purpose of approving official bonds which are required to be approved by the board.<sup>131</sup> The official bond of the county assessor is approved by and filed with the auditor; and the assessor's official oath is administered by the auditor and endorsed on said bond.<sup>132</sup> The official bond of each township trustee is approved by the auditor.<sup>133</sup>

The auditor is clerk of the board of commissioners,<sup>134</sup> the county council,<sup>135</sup> and the county board of tax adjustment;<sup>136</sup> and he is secretary of the board of finance.<sup>137</sup> He is also a member and secretary of the county board of review<sup>138</sup> and a member of the county school fund board.<sup>139</sup> From 1841 to 1890 he was a member of the boards performing duties analogous to those of the present county board of review.<sup>140</sup> Formerly the auditor was a member of the election board under the local option liquor laws,<sup>141</sup> was a member of the district board of equalization,<sup>142</sup> and was clerk of the old-age pension board.<sup>143</sup> The auditor keeps a record of all the boards of which he is a clerk or secretary.

When the county borrows money, the bonds or notes are executed by the county commissioners and are attested, advertised, and sold by the auditor. Printed copies of the ordinance au-

<sup>131</sup> Acts 1851-52; Burns 49-125; Baldwin 13093.

<sup>132</sup> Acts 1919, 1921; Burns 64-1101; Baldwin, 15686.

<sup>133</sup> Acts 1859, 1889; Burns 65-102; Baldwin, 16060. Acts 1915; Burns 65-103; Baldwin 16061. Copeland v. State ex rel. Davis, 126 Ind. 51, 25 N. E. 866 (1890).

<sup>134</sup> Acts 1840-41 (general), ch. 2, secs. 8, 54. Rev. Stat. 1843, ch. 7, secs. 5, 16, 17, 53. Acts 1855, ch. 37, sec. 1. 1 Rev. Stat. 1852; Burns 26-611, 26-621, 49-3004; Baldwin 5226, 5238, 5418.

<sup>135</sup> Acts 1899; Burns 26-509; Baldwin 5373.

<sup>136</sup> Acts 1932 (Spec. Sess.), ch. 10, sec. 4. Acts 1933, ch. 237, sec. 4. Acts 1937; Burns, 1941 suppl., 64-310; Baldwin, 1937 suppl., 15897-4.

<sup>137</sup> Acts 1937; Burns, 1941 suppl., 61-629; Baldwin, 1937 suppl., 13844-50.

<sup>138</sup> Acts 1891, ch. 99, secs. 114, 116. Acts 1919, 1920 (Spec. Sess.); Burns 64-1201;

Baldwin 15700.

<sup>139</sup> Acts 1865, 1935; Burns, 1941 suppl., 28-209; Baldwin, 1935 suppl., 6558.

<sup>140</sup> Acts 1838-39 (general), ch. 14, secs. 14, 15. Acts 1840-41 (general), ch. 1, secs. 13, 18. 1 Rev. Stat. 1852, ch. 6, sec. 91; ch. 35, sec. 2. Acts 1872 (Spec. Sess.), ch. 37, secs. 150, 277, 278. Acts 1877, ch. 89, sec. 1. Acts 1881 (Spec. Sess.), ch. 96, sec. 129.

<sup>141</sup> Acts 1908 (Spec. Sess.), ch. 2, sec. 5. Acts 1911, ch. 7, sec. 5. Kunkle v. Coleman, 174 Ind. 315, 92 N. E. 61 (1910).

<sup>142</sup> 1 Rev. Stat. 1852, ch. 35, secs. 5-7. This board was abolished by Acts 1872 (Spec. Sess.), ch. 37.

<sup>143</sup> Acts 1933, ch. 36, secs. 2, 9, 12 (all repealed by Acts 1936 (Spec. Sess.), ch. 3, sec. 129).

thorizing the bond issue, together with specifications describing the bonds, are kept on file in the auditor's office, open to public inspection.<sup>144</sup> If the amount of a bond issue exceeds \$5,000, and if 10 taxpayers file objections with the auditor, the objections will be certified by the auditor to the Indiana Tax Board for hearing and disposition.<sup>145</sup>

Contracts for the extension of time for payment of county or township bonds by issuance of "redemption bonds" are executed by the county commissioners and attested by the auditor, and one executed copy is kept by the auditor; and the auditor keeps a record of redemption bonds issued in pursuance of such contract.<sup>146</sup>

The auditor examines and settles all accounts and demands chargeable against the county which no law requires to be settled and allowed by some other tribunal or person.<sup>147</sup>

Claims against the county (for consideration by the board of commissioners) are filed with the auditor and presented by him to the board of commissioners.<sup>148</sup> He makes certificates showing quality and price in compliance with the contract.<sup>149</sup> He publishes all such claims and allowances thereon and also all allowances against the county made by courts.<sup>150</sup> On appeals from decisions of the board of commissioners, the auditor approves the appeal bond, prepares the transcripts of proceedings, and transmits the bond, transcript, and all documents to the reviewing court.<sup>151</sup>

Scalps of woodchucks, wolves, and foxes; heads of owls, hawks, and crows; and eggs of crows are presented to the auditor with the statutory affidavits for the purpose of obtaining bounties thereon.<sup>152</sup>

<sup>144</sup> Acts 1899, 1921; Burns 26-540; Baldwin 5405.

<sup>145</sup> Acts 1919, 1920 (Spec. Sess.); 1921, 1923; Burns 64-1332; Baldwin 15736.

<sup>146</sup> Acts 1933; Burns 26-1015 to 26-1017; Baldwin 5353 to 5365.

<sup>147</sup> Rev. Stat. 1843, ch. 7, sec. 55. 1 Rev. Stat. 1852; Burns 49-3005; Baldwin 5419.

<sup>148</sup> Acts 1879 (Spec. Sess.); Burns, 26-805; no Baldwin.

<sup>149</sup> Acts 1899; Burns 26-538; Baldwin 5403.

<sup>150</sup> Acts 1875, ch. 18, sec. 1. Acts 1899; Burns 26-816; Baldwin 5268. Acts 1931; Burns 26-817 to 26-819; Baldwin 5269 to 5271. *Cheney v. State ex rel. Risk*, 165 Ind. 121, 74 N. E. 892 (1905).

<sup>151</sup> 1 Rev. Stat. 1852; Burns 26-902, 26-903; Baldwin 5278, 5279. *Scotten v. Divilbiss*, 46 Ind. 301 (1874); *Shirk v. Moore*, 96 Ind. 199 (1884); *Strebin v. Lavengood*, 163 Ind. 478, 71 N. E. 494 (1904); *Smith v. Gustin*, 169 Ind. 42, 81 N. E. 722 (1907).

<sup>152</sup> Acts 1875; Burns 26-1101; Baldwin 5288. Acts 1833; Burns 26-1102; Baldwin 5269. Acts 1911; Burns 26-1103; Baldwin 3802.

Specifications, bids, and contracts for materials and supplies required for county officials for the ensuing year are placed on file and kept in the auditor's office where they are open to public inspection.<sup>153</sup>

When an election is held to change the boundaries of counties, the clerk of the circuit court of each of the affected counties makes out certified copies of the election returns and files them in the office of the auditor of each of such counties. The auditor and board of commissioners in each county then examine the returns, and if the proposed change of boundaries was carried at the election, the auditor enters an order to that effect in the order book of the board of commissioners.<sup>154</sup> The auditor makes a certificate of tax levies for the purpose of raising funds from the detached territory to pay the debts of the county from which it was detached.<sup>155</sup>

The township trustees quadrennially meet in the office of the auditor for the purpose of electing a county superintendent of schools. After notice is given by the auditor, the trustees meet there at any time to fill a vacancy in such office. The auditor is clerk of the election and keeps a record thereof. In case of a tie vote the auditor casts the deciding vote. The person elected files his oath of office and official bond with the auditor, who approves the bond. The auditor reports the election to the State Superintendent of Public Instruction.<sup>156</sup>

The Auditor of State prepares maps or plats of the lands belonging to the State and located in the county, known as the swamplands, indemnity lands, saline lands, and the lands escheated or forfeited to the State, and delivers them to the county auditor, who causes an appraisal thereof, registers the lands in a book kept for that purpose, and records the sales of such lands.<sup>157</sup>

The auditor must preserve the documents, books, papers,

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<sup>153</sup> Acts 1899, 1903, 1933; Burns 26-536; Baldwin 5401.

<sup>154</sup> Acts 1875; Burns 26-201; Baldwin 5032.

<sup>155</sup> Acts 1875; Burns 26-204, 26-205; Baldwin 5035, 5036.

<sup>156</sup> Acts 1873, ch. 25, sec. 2. Acts 1899, 1911, 1913; Burns 28-702, Baldwin 5931. State ex rel. Nebecker v. Sutton, 99 Ind. 300 (1884); State ex rel. Laughlin v. Porter, 113 Ind. 79, 14 N. E. 883 (1888); State ex rel. William v. Edwards, 114 Ind. 581, 16 N. E. 627 (1888); State ex rel. Drmmmond v. Dillon, 125 Ind. 65, 25 N. E. 136 (1890); State ex rel. Morris v. McFarland, 149 Ind. 266, 49 N. E. 5 (1898).

<sup>157</sup> Rev. L. 1831, ch. 11, sec. 6. Rev. L. 1838, ch. 10, secs. 6, 7. 1 Rev. Stat. 1852, ch. 104, sec. 13. Acts 1855, ch. 85, secs. 1, 4. Acts 1883, ch. 124, sec. 2. Acts 1889; Burns 62-256 to 62-209; Baldwin 15272 to 15275.

and maps deposited in his office.<sup>158</sup> If any map or plat in his office becomes worn or defaced, he makes a new copy thereof. He takes copies of maps or plats in the recorder's office that may be necessary for the discharge of the auditor's official duties.<sup>159</sup>

Under former laws the auditor prepared blank forms of poll books and election returns, and delivered them to the inspectors of the election precincts;<sup>160</sup> delivered election supplies to the registration inspector of each precinct;<sup>161</sup> kept the completed registration books and forms in his office, open to public inspection;<sup>162</sup> filed in his office petition for elections under the local option liquor laws;<sup>163</sup> and delivered to the clerk of the circuit court the various papers involved in election contests heard by the board of commissioners, together with transcripts of the proceedings of the board.<sup>164</sup>

Each township assessor annually prepares lists of all persons in his township who are deaf, dumb, blind, idiotic, or insane, and delivers the lists to the auditor, who reports them to the State Department of Public Welfare.<sup>165</sup>

Formerly the township assessors were required to enumerate the families of soldiers, seamen, and marines in active service, and of those who died or were disabled in active service, and deliver the lists to the auditor.<sup>166</sup> The township trustees formerly made enumerations of children between the ages of 5 and 21 years and delivered the returns to the auditor, who delivered them to the State Superintendent of Public Instruction.<sup>167</sup>

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<sup>158</sup> Acts 1840-41 (general), ch. 2, secs. 8, 54. Rev. Stat. 1843, ch. 7, secs. 5, 16, 17, 53; ch. 15, sec. 34. Acts 1883, ch. 56, sec. 1. Acts 1891, ch. 99, secs. 114, 116. 1 Rev. Stat. 1852; Burns 26-611, 26-621, 49-3004; Baldwin 5226, 5238, 5418. Acts 1899; Burns 26-509; Baldwin 5373. Acts 1919, 1920 (Spec. Sess.); Burns 64-1201; Baldwin 15700.

<sup>159</sup> 1 Rev. Stat. 1852; Burns 49-3232; Baldwin 5432.

<sup>160</sup> Acts 1881 (Spec. Sess.), ch. 47, sec. 13.

<sup>161</sup> Acts 1911, ch. 150, sec. 5 (repealed by Acts 1913, ch. 185, sec. 25).

<sup>162</sup> Acts 1911, ch. 150, sec. 13 (repealed by Acts 1913, ch. 185, sec. 25).

<sup>163</sup> Acts 1908 (Spec. Sess.), ch. 2, sec. 1. Acts 1911, ch. 7, sec. 5.

<sup>164</sup> Rev. L. 1831, ch. 33, secs. 8, 9. Rev. Stat. 1843, ch. 5, sec. 103.

<sup>165</sup> Acts 1849-50 (general), ch. 17, sec. 4. Acts 1859, ch. 7, secs. 1, 2. Acts 1891, ch. 99, sec. 54. Acts 1919; Burns 64-607; Baldwin 15575.

The foregoing laws require the report to be made to the State Board of Charities. In 1936 the duties of that board were transferred to the State Department of Public Welfare. Acts 1936 (Spec. Sess.), ch. 3, sec. 11.

<sup>166</sup> Acts 1865, ch. 40, secs. 2, 3, 5. Acts 1923, ch. 4, sec. 1.

<sup>167</sup> Rev. Stat. 1843, ch. 15, sec. 25. Acts 1846-47 (general), ch. 94, sec. 2. Acts 1855, ch. 86, sec. 26.



Once every 6 years the township trustees and their assistants enumerate all white male inhabitants of the State over 21 years old.<sup>168</sup> Books and blanks, together with copies of the law requiring such enumerations, are furnished to the township trustees by the auditor.<sup>169</sup> The trustees' returns are filed in the office of the auditor.<sup>170</sup> The auditor examines the returns and corrects (by orders recorded in a separate book) any errors, mistakes, or omissions discovered. For this purpose he may subpoena and question witnesses.<sup>171</sup> The auditor then certifies the corrected enumerations to the Auditor of State.<sup>172</sup> Likewise there is an enumeration of colored male inhabitants. Separate lists are made; one is designated "white male inhabitants" and the other "colored male inhabitants."<sup>173</sup>

If on account of death, sickness, or other casualty the judge of the circuit court fails for 3 consecutive days to attend court during termtime, the auditor, sheriff, and clerk of the circuit court, acting together, may appoint a temporary judge to serve until the return of the regular judge or until his successor is named.<sup>174</sup>

Petitions for condemnation of schoolhouses, as unfit for use for school purposes, are filed with the auditor. The auditor mails and publishes notices of hearings, and calls special joint sessions of the board of commissioners and county council to hold hearings on such petitions.<sup>175</sup>

Formerly petitions to have the surveyor removed from office were filed with the auditor for presentment to the board of commissioners.<sup>176</sup> Vacancies in the former office

<sup>168</sup> Const. 1816, art. 3, sec. 2. Const. 1851, art. 4, sec. 4. Acts 1853, ch. 41, secs. 1, 2.

Acts 1865 (Spec. Sess.); Burns 65-601 to 65-605; Baldwin 7490 to 7494.

<sup>169</sup> Acts 1844-45 (general), ch. 29, sec. 2. Acts 1853, ch. 41, sec. 2. Acts 1865 (Spec. Sess.); Burns 65-614; Baldwin 7503.

<sup>170</sup> Acts 1844-45 (general), ch. 29, sec. 3. Acts 1865 (Spec. Sess.); Burns 65-603; Baldwin 7492.

<sup>171</sup> Acts 1865 (Spec. Sess.); Burns 65-610; Baldwin 7499.

<sup>172</sup> Acts 1844-45 (general), ch. 29, sec. 5. Acts 1853, ch. 41, sec. 3. Acts 1865 (Spec. Sess.); Burns 65-611; Baldwin 7500.

<sup>173</sup> Acts 1877; Burns 65-619, 65-620; Baldwin 7509, 7510.

<sup>174</sup> 2 Rev. Stat. 1852, ch. 4, secs. 4, 17, pp. 6, 7. Acts 1881 (Spec. Sess.); Burns 4-3103; Baldwin 1261.

<sup>175</sup> Acts 1931; Burns 28-3002 to 28-3004; Baldwin 6144 to 6146.

<sup>176</sup> Rev. Stat. 1843, ch. 10, sec. 4.



of real estate appraiser were filled through appointment by the auditor.<sup>177</sup>

Articles of incorporation of humane societies are filed with the auditor and form the basis for the distribution of humane funds on warrants drawn by him.<sup>178</sup>

Formerly every fire insurance company doing business in Indiana, not organized under Indiana laws, was required to make semiannual reports to the auditor showing premiums received by the company for fire insurance on property in the county and showing all losses paid by the company for the last semiannual period.<sup>179</sup> Formerly financial statements of banks were filed with the auditor.<sup>180</sup>

Formerly the auditor, as clerk of the board of commissioners, issued old-age pension certificates to applicants approved by the board, and delivered duplicates thereof to the Auditor of State.<sup>181</sup>

Copies of reports to the State Board of Accounts by its field examiners showing the results of their examinations of county offices are filed with the auditor.<sup>182</sup>

The auditor furnishes all county officials with books, stationery, and blanks required in doing the public business pertaining to the auditor's office.<sup>183</sup>

The auditor, as relator, may sue, in the name of the State, to recover money owing to the county;<sup>184</sup> and the auditor may compromise the suits brought by him and receive the money agreed to be paid.<sup>185</sup>

The auditor and his deputies can administer all oaths necessary in the performance of their duties.<sup>186</sup>

Forms of various books, blanks, documents, and reports have been prescribed for county auditors by the State Board

<sup>177</sup> Acts 1858 (Spec. Sess.), ch. 2, sec. 1.

<sup>178</sup> Acts 1913; Burns 9-2504, 9-2505; Baldwin 3805, 3806.

<sup>179</sup> Acts 1891, ch. 192, sec. 1. On June 16, 1893, this act was held unconstitutional.

Henderson v. London & Lancashire Ins. Co., 135 Ind. 23, 34 N. E. 565 (1893).

<sup>180</sup> Acts 1905, ch. 56, sec. 2 (repealed by Acts 1907, ch. 281, sec. 6.).

<sup>181</sup> Acts 1933, ch. 36, sec. 12 (repealed by Acts 1936 (Spec. Sess.), ch. 3, sec. 129).

<sup>182</sup> Acts 1909; Burns 60-211; Baldwin 13862.

<sup>183</sup> Acts 1879 (Spec. Sess.); Burns 49-3018; Baldwin 5434.

<sup>184</sup> 1 Rev. Stat. 1852; Burns 49-3017; Baldwin 5431. Heagy v. State ex rel. Forkner, 85

Ind. 260 (1882); Demarest v. Holdeman, 157 Ind. 467, 62 N. E. 17 (1901).

<sup>185</sup> Cabel v. McCafferty, 53 Ind. 75 (1876); Vigo Twp. v. Board of County Comrs., 111 Ind.

170, 12 N. E. 305 (1887).

<sup>186</sup> 1 Rev. Stat. 1852; Burns 49-3013; Baldwin 5427.

of Accounts,<sup>187</sup> which was created in 1909.<sup>188</sup> Nearly all of these forms were prescribed in 1910 and 1911, though some changes have been made since then. Most of the books and records required by the State Board of Accounts were specifically required by statute; but the board, under its broad statutory powers, has in some instances required books and records, such as the auditor's monthly balance record, not specifically required by statute. The auditor is not required to keep as many separate records now as he did before 1924, since the State Board consolidated many of his records that year.<sup>189</sup>

The auditor must keep all books and records in a fire-proof building when available.<sup>190</sup>

### RECEIPTS AND DISBURSEMENTS

#### GENERAL FUND

223. MONTHLY FINANCIAL STATEMENT, 1912-. 7 vols. Title varies: Record of monthly balances, 1912-23, 3 vols. Auditor's monthly financial statements of receipts and disbursements of county revenue and miscellaneous funds, showing date of statement, name and number of fund, amounts of receipts and disbursements, and current balance or overdraft of each fund. Arr. chron. by date of statement. No index. Hdw. 100 pp. 19 x 16 x 1. 5 vols., 1912-29, attic strg. room; 2 vols., 1930-, aud. off.

224. [LEDGER OF RECEIPTS, APPROPRIATIONS, AND DISBURSEMENTS], 1925-. 4 vols.

Record of receipts, appropriations, and disbursements, showing dates and amounts of receipts, appropriations, and disbursements; receipt and warrant numbers; names of payer, payee, and fund; source of county revenue; and amount of appropriation balance. This is a combination of two records formerly kept separately: Record of receipts, entry 229; record of appropriations and disbursements, entry 230. Arr. chron. by years, alph. thereunder by name of fund, and chron. thereunder by dates of receipts, appropriations, and disbursements. No index. Hdw. 850 pp. 20 x 15 x 5½. 1 vol., 1925-32, attic strg. room; 2 vols., 1933-40, aud. vt.; 1 vol., 1941-, aud. off.

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<sup>187</sup> Acts 1909; Burns 60-202; Baldwin 13855. Information obtained from E. P. Brennan, State Examiner, on May 18, 1939, by W. Davis Hamilton.

<sup>188</sup> Acts 1909; Burns 60-202; Baldwin 13855.

<sup>189</sup> *Ibid.* Information obtained from E. P. Brennan, State Examiner, on May 18, 1939, by W. Davis Hamilton.

<sup>190</sup> Rev. Stat. 1843, ch. 7, sec. 22. 1 Rev. Stat. 1852; Burns 26-624, 49-3004; Baldwin 5240, 5418.

225. RECORD OF RECEIPTS, Aug. 11, 1841-Dec. 31, 1924. 5 vols. (2 vols. unlabeled; 1-3). Title varies: Register of Receipts, Aug. 11, 1841-Dec. 30, 1911, 2 vols. 1925- in Ledger of Receipts, Appropriations and Disbursements, entry 228.

Record of receipts of county revenue, showing date, number, nature, and amount of receipt; names of payer and fund; and total. Arr. chron. by date of receipt. No index. Hdw. 2 vols. aver. 395 pp. 17 x 11 x 2; 3 vols. 210 pp. 18 x 27 x 1½. Attic strg. room.

226. APPROPRIATION AND DISBURSEMENT RECORD, 1900-1924. 6 vols. (1 vol. unlabeled; 2, 1-4) Title varies: Appropriation Ledger, Jan. 1, 1900-Sept. 8, 1908, 1 vol.; Appropriation and Disbursement Ledger, Sept. 9, 1908-Feb. 1912, 1 vol.; 1925- in Ledger of Receipts, Appropriations, and Disbursements, entry 228.

Record of appropriations and disbursements therefrom, showing dates and amounts of appropriations and disbursements, and names of payee and fund. Arr. chron. by date of disbursement. No index. Hdw. Aver. 300 pp. 15 x 12 x 1½. Attic strg. room.

227. AUDITOR'S REGISTER OF ALL RECEIPTS OTHER THAN TAX PAYMENTS, 1912-24. 1 vol.

Register of receipts of county revenue other than tax payments, showing date, number, nature, and amount of receipt; names of payer and fund; and total. Arr. chron. by date of receipt. No index. Hdw. 300 pp. 16 x 12 x 2½. Attic strg. room.

228. FEE AND CASH BOOK, Sept. 11, 1864-July 10, 1901, 1910-. 3 vols. (1 vol. unlabeled; 1 vol. dated; 1 vol. unlabeled). Title varies: Auditor's Fee Book, Sept. 11, 1864-July 10, 1901, 1 vol.

Record of fees collected, showing date, nature, and amount of collection; name of payer; total receipts; and date of payment to treasurer. Arr. chron. by date of collection. No index. Hdw. 1 vol., 300 pp. 15 x 10 x 1, Sept. 11, 1864-July 10, 1901, attic strg. room; 2 vols. 420 pp. 18 x 12 x 2½, 1910-, aud. vt.

229. JOURNAL, June 8, 1841-Dec. 31, 1919. 8 vols. (1 vol. unlabeled; 2; 1 vol. unlabeled; 4-8).

Record of receipts and disbursements of county funds, showing dates, nature, and amounts of receipt and disbursement, and names of payer and payee. Arr. chron. by dates of receipt and disbursement. No index. Hdw. 1 vol. 300 pp. 12½ x 8½ x 1½; 7 vols. 600 pp. 16 x 12½ x 2½. Attic strg. room.

230. LEDGER [AUDITOR], May 2, 1836-Dec. 31, 1918. 5 vols. (3 vols. unlabeled; 2, 3).

Ledger of receipts and disbursements of county funds, showing information as in entry 233. Arr. chron. by dates of receipt and disbursement. No index. Hdw. 2 vols. 200 pp. 13 x 8½ x 1½; 3 vols. 600 pp. 16 x 12½ x 2½. Attic strg. room.

231. [COPIES OF] RECEIPTS, 1928-. 2 vols. (dated).

Copies of receipts issued for payment of county revenue other than taxes, showing date, number, nature, and amount of receipt, and name of payer. Arr. chron. by date of receipt and numer. thereunder by receipt no. No index. Hdw. 300 pp. 17 x 12 x 5. Aud. off.

232. AUDITOR'S CERTIFICATE OF DISTRIBUTION, Jan. 13, 1912-. 13 vols.

Copies of auditor's certificates of distribution of funds, showing date of certificate; warrant number; names of payee, taxing unit, and fund; and amount of distribution. Arr. chron. by date of certificate. No index. Hdw. 12 vols. aver. 350 pp. 11 x 15 x 2, 1912-37, attic strg. room; 1 vol. 600 pp. 9 x 12 x 3, 1938-, aud. off.

233. WARRANTS, 1913-32, 4 f. b.

Duplicates of warrants issued, showing date, number, nature, and amount of warrant; appropriation number; and names of payee and fund. Arr. chron. by date of warrant. Hdw. 11 x 20 x 12. Attic strg. room.

234. COUNTY WARRANTS, 1933-. 3 vols. (dated).

Canceled warrants paid by depositories, showing date, number, nature, and amount of warrant; appropriation number; names of payee, depository, and fund; and date of cancelation. Arr. chron. by date of warrant. No index. Typed. 16 x 12 x 7. Aud. vt.

235. COUNTY WARRANTS, 1928-39. 5 vols. (dated).

Record of warrants drawn on depositories, showing date, number, nature, and amount of warrant; appropriation number; and names of payee, depository, and fund. Arr. numer. by warrant no. No index. Hdw. 16 x 10 x 12. Attic strg. room.

236. AUDITOR'S REGISTER OF WARRANTS, Jan. 8, 1841-Dec.

31, 1924. 10 vols. (1 vol. unlabeled; 2-8; 2 vols. dated). Title varies: Register of Orders, June 8,

1841-Dec. 30, 1911, 8 vols. Record of warrants issued, showing date, number, and amount of warrant; date redeemed; appropriation number; and names of payee and fund. Also con



tains: Register of orders, school fund, entry 251. Arr. chron. by date of warrant. No index. Hdw. Aver. 625 pp. 17 x 13 x 3. Attic strg. room.

237. CHECKS [CANCELED], 1839-. 9 f. b. and 8 f. d. Canceled checks issued against county funds and paid by depositories, showing date, number, amount, and purpose of check; names of payee and depository; and of cancelation. Arr. chron. by date of check. No index. Hdw. 7 f. b. 11½ x 16 x 10½; 2 f. b. 7½ x 48 x 30, 1839-1936, attic strg. room; 8 f. d. 5 x 9½ x 22, 1937-, aud. vt.

238. CLERK'S CERTIFICATE OF ALLOWANCE, 1935. 1 f. b. Clerks certificates of court allowances, showing dates of certificate and allowance, name of payee, amount of allowance, and warrant number. Arr. chron. by date of allowance. No index. Hdw. 10½ x 14 x 4½. Aud. off.

239. AUDITORS VENUE RECORD, Oct. 20, 1874-July 1, 1920, Mar. 3, 1935-. 2 vols. Title varies: Change of Venues, Oct. 20, 1874-July 1, 1920, 1 vol. Record of receipts and disbursements of court costs in causes venued to and from adjoining counties, showing date, number, nature, and amount of receipt or warrant; number and nature of cause; and names of plaintiff, defendant, and county. Arr. chron. by date of receipt or warrant. No index. Hdw. 1 vol. 300 pp. 18 x 12 x 1, Oct. 20, 1874-July 1, 1920, attic strg. room; 1 vol. 110 pp. 14 x 3 x 2, 1935-, aud. off.

240. CHANGE OF VENUE, 1932-38. 1 f. b. Claims filed from courts of adjoining counties for costs in causes venued from local courts, showing dates of claim, filing transcript, and trial; disposition of cause and certification of claim; names of plaintiff, defendant, and county; nature and number of cause; and itemized statement of costs. Arr. chron. by date of claim. No index. Hdw. 10½ x 4½ x 14. Aud. off.

241. QUIETUS AND APPLICATION TO PAY, Jan. 2, 1912-July 31, 1923. 10 vols. Copies of applications to pay money to treasurer, showing date and number of application, names of payer and fund, and amount and purpose of payment. Arr. chron. by date of application. No index. Hdw. 100 pp. 18 x 12 x 1. Attic strg. room.

242. AUDITOR'S QUIETUS, 1859-91, 1933-. 3 f. b. Copies of quietuses issued for payments to treasurer, showing date, number, and amount of quietus; names of payer and fund; and purpose of payment. Arr. numer. by quietus no. No index. Hdw. 2 f. b. 10 x 6 x 5, 1859-91,

bsmt. strg. room; 1 f. b.  $10\frac{1}{2}$  x 14 x  $4\frac{1}{2}$ , 1933-, aud. off.

#### SCHOOL FUNDS

243. INVENTORY OF TRUST OR SCHOOL FUNDS, April 14, 1899-.  
1 vol. (1).

Annual inventory of trust and school fund loans, showing date of inventory; date, number, and amount of loan; amounts of unpaid balance of principal and interest; dates interest due and paid; name of fund; and amount represented by forfeited land. Arr. chron. by date of inventory. No index. Hdw. 500 pp. 16 x 17 x 2. Aud. vt.

244. REGISTER OF [INTEREST] RECEIPTS, Oct. 11, 1843-Mar. 3, 1852. 1 vol.

Register of payments of interest on school fund loans, showing date and amount of payment; date, number, and amount of loan; and name of payer. Arr. chron. by date of payment. No index. Hdw. 150 pp. 12 x 8 x  $\frac{1}{2}$ . Attic strg. room.

245. SCHOOL FUND MORTGAGES, 1909-. 6 f. b.

Original mortgages executed to secure school fund loans, showing date, number, and amount of mortgage; name of mortgagor; location and description of property; and dates and amounts of payments of principal and interest. Arr. num. by mortgage nos. No index. Hdw.  $10\frac{1}{2}$  x  $4\frac{1}{2}$  x 22. Aud. vt.

246. RECORD OF SCHOOL FUND LOANS, Sept. 5, 1842-Feb. 25, 1852, April 14, 1899-. 5 vols. (1 vol. unlabeled; 1, 1-3). Title varies: Register of Loans, Sept. 5, 1842-Feb. 25, 1852, 1 vol.

Record of school fund loans and payments, showing date and amount of loan; names of borrower and fund; location and description of mortgaged property; date, nature, and amount of payment; and balance due. Arr. chron. by date of loan. No index. Hdw. 1 vol. 150 pp. 12 x 8 x  $\frac{1}{2}$ ; 1 vol. 400 pp. 16 x 12 x 3, Sept. 5, 1842-Dec. 31, 1907, attic strg. room; 3 vols. 404 pp. 16 x 12 x 3, 1908-, aud. vt.

247. REGISTER OF ORDERS SCHOOL FUND, Sept. 13, 1843-Dec. 23, 1911. 3 vols. Title varies: Register of Orders on S. C. F. C., Sept. 13, 1843-Mar. 6, 1852, 1 vol.; Register of Orders, Mar. 7, 1852-May 31, 1872, 1 vol. 1912-24 in Auditor's Register of Warrants, entry 240.

Record of disbursements of Congressional and common school funds, showing date, number, amount, and purpose of order, and names of payee and fund. Arr. chron. by date of order. No index. Hdw. Aver. 250 pp. 15 x 10 x  $1\frac{1}{2}$ . Attic strg. room.

248. REGISTER OF RECEIPTS [School Funds], Mar. 4, 1852-Dec. 30, 1911. 3 vols. 1912-24 in Record of Receipts, entry 229.

Register of receipts of school funds, showing date, number, nature, source, and amount of receipt and names of payer and fund. Arr. chron. by date of receipt. No index. Hdw. 250 pp. 16 x 12 x 2. Attic strg. room.

249. SCHOOL FUND LEDGER, Jan. 1, 1852-July 10, 1911. 4 vols. Title varies: Journal of Trust Funds, Ledger of Trust Fund, 1869-Aug. 27, 1872, 1 vol.

Record of receipts and disbursements of school funds, showing dates and amounts of receipt and disbursement, name of fund, date of entry, and balance. Arr. chron. by date of entry. No index. Hdw. 600 pp. 16 x 12 x 2½. Attic strg. room.

250. JOURNAL [School Funds], Sept. 10, 1843-Oct. 10, 1853. 2 vols.

Register of payments of interest and principal on school fund loans, showing date and amount of payment and receipt; date, number, and amount of loan; and name of payer. Arr. chron. by date of receipt. No index. Hdw. 150 pp. 12 x 8 x ½. Attic strg. room.

251. SCHOOL COM[mi]S[sioners] REPORT 1842, Dec. 1 1836-Mar. 8, 1842. 1 vol.

School commissioner's report of receipts and disbursements of school funds, showing date, nature, and amounts of receipts and disbursements, and names of payer and payee. Arr. chron. by date of entry. No index. Hdw. 24 pp. 13 x 8 x 1-16. Attic strg. room.

252. AUDITOR'S AND TREASURER'S REPORTS [Receipts], 1913-31. 1 f. b.

Stubs of receipts issued for payment of interest on school fund loans, showing date and amount of payment, and receipt number. Arr. numer. by receipt no. No index. Hdw. 11 x 20 x 12. Attic strg. room.

253. WARRANTS REDEEMED BY SCHOOL COMMISSIONER, Sept. 15, 1843-July 28, 1849. 1 vol.

Record of warrants redeemed by school commissioner, showing date, nature, number and amount of warrant and date of redemption. Arr. chron. by date of redemption. No index. Hdw. 150 pp. 12 x 8 x ½. Attic strg. room.

254. REGISTER OF INSTALLMENTS ON LOANS OF TRUST FUND, 1836-79. 3 vols.

Record of payments of instalments on school fund loans, showing date, number, and amount of loan; names of mortgagor and

fund; and dates of principal and interest payments. Arr. alph. by name of mortgagor. No index. Hdw. Aver. 175 pp. 17 x 13 x 1. Attic strg. room.

255. AUDITOR'S REPORT OF SCHOOL REVENUE, 1874-96. 2 f. b. (145, 146).

Copies of annual reports by auditor to State Superintendent of Public Instruction of apportionment of school fund revenues to school units, showing date of report, name of fund, and amounts of receipts and disbursements. Arr. chron. by date of report. No index. Hdw. 10 x 6 x 5. Bsmt. strg. room.

256. SCHOOL FUND AND STATE REPORTS, 1925-40. 16 bdl.

Copies of reports by auditor to Auditor of State and State Superintendent of Public Instruction of school fund loans, showing date of report, number and amount of mortgage, names of mortgagor and fund, location and description of property, and dates and amounts of payments of principal and interest. Arr. chron. by date of report. No index. Hdw. 10½ x 14 x 4½. Aud. off.

#### TOWNSHIP FUNDS

257. ACCOUNT WITH T[OWNSH]P TRUSTEES, April 26, 26, 1859-Dec. 31, 1919. 4 vols (2 vols. unlabeled; 2, 3).

Title varies: Current Accounts with Townships, April 26, 1859-Mar. 4, 1872, 1 vol.

Auditor's record of disbursements of township funds, showing date, number, nature, and amount of order; names of township, payee, and fund; and total. Arr. alph. by name of t. and chron. thereunder by date of order. No index. Hdw. Aver. 200 pp. 16 x 11½ x 1½. Attic strg. room.

258. TRUSTEES VOUCHERS, 1918-30. 1 f. b.

Canceled checks returned to township trustees, showing dates of issue and payment, names of payee and fund, and amount of check. Arr. chron. by date of issue. No index. Hdw. 20 x 12. Attic strg. room.

259. SUPPLIES, 1860-. 3 f. b.

Receipted copies of township trustees' vouchers issued for payment of supplies, showing information as in entry 264. Arr. chron. by date of payment. No index. Hdw. 11½ x 16½ x 16. Attic strg. room.

260. TOWNSHIP TRUSTEE'S VOUCHERS, 1862-78, 1908-. 14 f. b. and 1 f. d. Title varies: Trustee's Vouchers, 1862-78, 1908-35, 14 f. b.

Receipted copies of township trustees' vouchers issued for payment of township expenses, showing date, number, nature, and



amount of voucher, and names of township, trustee, fund, and payee. Arr. chron. by date of voucher. No index. Hdw. 14 f. b. 11 x 20 x 12, 1862-78, 1908-35, attic strg. room; 1 f. d. 15 x 14 x 23, 1936-, aud. vt.

261. POOR RELIEF VOUCHERS. ROCHESTER T[ownshi]p, 1935-38. 2 cartons.

Receipted copies of township trustees' vouchers issued for payment of township poor relief claims of Rochester Township, showing information as in entry 264. Arr. chron. by date of voucher. No index. Hdw. 1 carton 16 x 27 x 12; 1 carton 14 x 18 x 13. Attic strg. room.

262. POOR RELIEF VOUCHERS. HENRY T[ownshi]p, 1935-38. 1 carton.

Receipted copies of township trustees' vouchers issued for payment of township poor relief claims of Henry Township, showing information as in entry 264. Arr. chron. by date of voucher. No index. Hdw. 8 x 12 x 16. Attic strg. room.

263. POOR RELIEF, May 1935-. 13 f. b.

Receipted copies of township trustees' vouchers issued for payment of poor relief, showing information as in entry 264. Arr. chron. by date of receipt. No index. Hdw. 10½ x 22 x 4½. Aud. vt.

264. POOR RELIEF ORDERS, 1928-35. 3 f. b.

Copies of orders issued by township trustees to recipients of poor relief for groceries, coal, clothing, and rent, showing date, number, and amount of order and name and address of recipient. Arr. chron. by date of order. No index. Hdw. 11 x 20 x 12. Attic strg. room.

265. TOWNSHIP POOR LEDGER, Jan. 1, 1913-May 31, 1935. 1 vol.

Record of disbursements of township poor relief funds, showing name of township; date, number, and amount of warrant; and balance of fund. Arr. alph by name of t. and chron. thereunder by date of warrant. No index. Hdw. 203 pp. 16 x 12 x 1½. Attic strg. room.

266. COUNTY AUDITOR'S LEDGER OF POOR RELIEF, 1935-. 2 vols.

Record of funds appropriated and disbursed for poor relief, showing dates of appropriation and disbursement; appropriation and warrant numbers; nature of relief; names of township, recipient, and fund; total amounts received and disbursed; and balance. Arr. chron. by dates of receipt and disbursement. No index. Hdw. 200 pp. 12 x 16 x 2. Aud. off.

## 267. DOG TAX REPORT, Mar. 4, 1929- 1 f. b.

Annual reports by township trustees to auditor of dog fund receipts and disbursements, showing dates of report. receipts, and disbursements; names of township, trustee, payer, and payee; voucher number; nature of receipts and disbursements; and amounts of previous balance, receipts, disbursements, totals, and closing balance. Arr. chron. by date of report. No index. Hdw.  $10\frac{1}{2}$  x 14 x  $4\frac{1}{2}$ . Aud. off.

## 268. TRUSTEES REPORTS, 1898-99. 1 f. b.

Trustee's monthly reports of miscellaneous expenditures, showing date of report; date, nature, amount, and purpose of expenditures; and names of township, trustee, and fund. Arr. chron. by date of report. No index. Hdw. 12 x 30 x 18. Attic strg. room.

## 269. TRUSTEE'S ANNUAL REPORT, 1913-. 15 vols. and 11 bdls. (dated).

Trustees' annual reports of disbursement of township funds, showing date of report; date, purpose, and amount of disbursement; and names of township, trustee, and fund. Arr. chron. by date of report. No index. Hdw. 11 vols. and 11 bdls. 400 pp.  $11\frac{1}{2}$  x 16 x  $1\frac{1}{2}$ , 1913-35, attic strg. room; 4 vols. 250 pp. 12 x 17 x 2, 1936-, aud. vt.

## 270. TRUSTEES REPORTS, 1884-95. 34 f. b.

Annual reports by trustees to auditor of receipts and disbursements of township funds, showing dates of report and filing; dates and amounts of receipts and disbursements; total amounts debited and credited to each fund; and balance. Arr. chron. by date of filing. No index. Hdw. 10 x 6 x 5. Bsmt. strg. room.

## 271. ROADS, 1888-96. 3 f. b. (153, 154, 47).

Reports by township trustees to auditor of expenditures for construction and repair of roads, showing dates of report and filing, name of road, and cost of construction or repair. Arr. chron. by date of filing. No index. Hdw. 10 x 6 x 5. Bsmt. strg. room.

## TAXATION

## REAL, PERSONAL, AND POLL

## 272. TRANSFER BOOK, 1836-. 42 vols.

Record of ownership and transfers of titles to real property, showing date of transfer; names of grantor and grantee; location, description, and assessed valuation of property; kind of deed; dates of instrument and transfer; and amount of fee.

Arr. alph. by name of grantee. No index. Hdw. 640 pp. 17 x 14 x 2½. Aud. vt.

273. ASSESSOR'S PLAT BOOK, 1865-1937. 66 vols.

Plat book of lands and lots in each township, showing date of plat; location and description of land or lot; and names of township and property owner. Arr. alph. by name of t. No index. Hdw. 46 vols. 100 pp. 16 x 10 x 1, 1865-85, bsmt. strg. room; 20 vols. 372 pp. 18 x 14 x 2½. 1886-1937, aud. off.

274. ASSESSOR'S BOOK, 1849-. 653 vols. (labeling varies).

Record of assessed valuation of all taxable property in the county, showing date of assessment; names of taxing unit and property owner; location and description of property; amount of mortgage indebtedness; and number of polls. Arr. by taxing unit and alph. thereunder by name of property owner. No index. Hdw. 398 vols. 150 pp. 16 x 10½ x ½, 1849-1918, attic strg. room; 243 vols. 102 pp. 17 x 14 x ½, 1919-39, assr. off; 12 vols. 262 pp. 17 x 14 x 1½, 1940-, aud. off.

275. ASSESSMENT LISTS, 1880-. 1233 vols. (labeling varies).

Record of assessments of personal and real property, showing date of assessment; assessment number; location, description, and valuation of property; and names of taxing unit and property owner. No index. Hdw. 831 vols. 1000 pp. 14 x 9 x 3, 1880-1921, attic strg. room; 402 vols. 300 pp. 14 x 9 x 2, 1922-, assr. off.

276. VALUATION RECORD, [Real Estate Assessments], 1859, 1864, 1869, 1875. 4 vols. (dated).

Assessment lists of real estate and improvements, showing date of assessment; name and address of owner; location, description, and valuation of lands, lots, and improvements; total assessed valuation; and name of taxing unit. Arr. by name of taxing unit and alph. thereunder by name of property owner. No index. Hdw. 600 pp. 18 x 12 x 3. Attic strg. room.

277. STATE BOARD ASSESSMENTS, RAIL ROAD MILEAGE AND CORPORATION ASSESSMENTS, 1926-32. 4 f. b.

Foreign corporations' statements of all holdings in Fulton County, showing date of statement, and location, description, and valuation of property. Arr. chron. by date of statement. No index. Hdw. 1876-96; typed 1926-32. 3 f. b. 10 x 6 x 5, 1876-96, bsmt. strg. room; 1 f. b. 10½ x 4½ x 22, 1926-32, aud. vt.

## 278. TRANSFERS BY AFFIDAVIT AND PARTITION, April 26, 1922-.

1 f. b.

Original affidavits executed as evidence of female property owner's change of name by marriage, showing dates of affidavit and filing and location and description of property. Arr. chron. by date of filing. No index. Typed. 10½ x 14 x 4½. Aud. off.

## 279. CORPORATION STATEMENTS, 1883-96, 1933-37. 4 f. b.

Domestic corporations' statements of all holdings in county, showing date of statement and filing; name of corporation; nature of business; location of principal office; amounts of capital, common and preferred stock; market valuation of stock; value of all tangible property and franchises; and financial statement. Arr. chron. by date of filing. No index. Hdw. 3 f. b. 10 x 6 x 5, 1883-96, bsmt. strg. room; 1 f. b. 14 x 15 x 22, 1933-37, aud. vt.

## 280. STATE TAX BOARD ASSESSMENTS, 1928-40. 1 f. b.

Copies of petitions to State Board of Tax Commissioners for reappraisal of property, showing dates of petition and filing; name and address of petitioner; location, description, and valuation of property; and date of approval or rejection. Arr. chron. by date of petition. No index. Hdw. 10 x 14 x 4½. Aud. off.

## 281. CERTIFICATE OF ERRONEOUS TAXES, Aug. 14, 1922-May 28, 1930. 2 vols. (5, 6).

Record of certificates of error issued to treasurer to correct erroneous tax assessments, showing date, nature, number, and amount of certificate, and certification of treasurer. Arr. numer. by certificate no. No index. Hdw. 340 pp. 16 x 14 x 1. Attic strg. room.

## 282. TAX DUPLICATE AND DELINQUENT LIST, 1877-1912.

72 vols. (dated). Record of taxes payable and amounts returned delinquent, showing information as in entry 283, and also delinquent list. This is a combination of two records formerly kept separately: Tax duplicate, entry 283; delinquent list, entry 284. Arr. by name of taxing unit and alph. thereunder by name of taxpayer. No index. Hdw. 600 pp. 16 x 20 x 2. Attic strg. room.

## 283. TAX DUPLICATE, 1842-76. 39 vols. (dated)). 1877-1912 in Tax Duplicate and Delinquent List, entry 282.

Auditor's record of taxes payable, showing instalment dates; names of taxpayer and taxing unit; duplicate number; location, description, and assessed valuation of lands, lots, and



improvements; assessed valuation of personal property; amount of exemption; net taxable valuation of all property; number of polls; and amounts of special assessments and total tax payable. Arr. by name of taxing unit and alph. thereunder by name of taxpayer. No index. Hdw. 19 vols. 300 pp. 18 x 13 x 1, 1842-60; 20 vols. 600 pp. 15 x 15 x 2½, 1861-76, attic strg. room.

284. DELINQUENT LIST, 1851-57, 1860-76. 12 vols. (1 vol. unlabeled; 1; 1 vol. unlabeled; 1, 2; 7 vols. dated). Title varies: Record of Delinquent Lists, 1851-57, 1 vol. 1877-1912 in Tax Duplicate and Delinquent List, entry 286.

Record of taxes returned delinquent, showing year of delinquency; names of taxpayer and taxing unit; duplicate number: location, description, and assessed valuation of lands, lots, and improvements; assessed valuation of personal property; amount of exemption; number of polls; and amount of delinquent tax, penalties, and interest. Arr. by name of taxing unit and alph. thereunder by name of taxpayer. No index. Hdw. 1 vol. 450 pp. 20 x 14 x 2; 11 vols. 200 pp. 17 x 16 x 2½. Attic strg. room.

285. RECORD OF DELINQUENT LANDS AND LOTS, 1868-1913. 2 vols. (1 vol. unlabeled; 2).

Record of real property returned delinquent for nonpayment of taxes, showing year and amount of delinquency; tax duplicate number; location, description, and assessed valuation of property; names of owner and taxing unit; amounts of penalty, interest, and costs; and total amount due. Arr. by taxing unit and alph. thereunder by name of taxpayer. No index. Hdw. 800 pp. 18 x 14 x 2½. Attic strg. room.

#### EXEMPTIONS

286. MORTGAGE INDEBTEDNESS, 1880-. 52 vols. (dated) and 1 f. b. Title varies: Affidavit of Mortgage Indebtedness, Mar. 2, 1935-May 4, 1936, 1 f. b.

Affidavits by property owners of mortgage indebtedness on real property to obtain tax exemptions, showing dates of affidavit, filing, and mortgage; names of mortgagor and taxing unit; name and address of mortgagee; location, description, and assessed valuation of property; and amounts of mortgage, unpaid balance, and exemption claimed and allowed. Arr. chron. by date of filing. No index. Hdw. F. b. 9 x 12 x 4; vols. aver. 600 pp. 10 x 16 x 4. Attic strg. room.

287. SOLDIERS EXEMPTION, 1922-23, 1929-32. 2 vols. (1 vol. unlabeled; 1 vol. dated). Title varies: Affidavits for Soldiers Exemptions, 1922-23, 1 vol.

Affidavits by veterans and widows of veterans filed to obtain tax exemptions, showing dates of affidavit and filing; name, age, address, and service record of veteran; name and address of widow; name of taxing unit; location and description of property; and amount of exemption. Arr. chron. by date of affidavit. No index. Hdw. Aver. 125 pp.  $7\frac{1}{2}$  x 10 x 2. Attic strg. room.

#### TAX SALES

288. REGISTER OF TAX SALES, 1844-. 5 vols. (2 vols. unlabeled; 2, 2; 1 vol. unlabeled). Title varies: Tax Sale Register, Mar. 29, 1851-Feb. 12, 1905. 2 vols.

Record of property sold for delinquent taxes, showing dates of sale and redemption; names of owner, purchaser, assignee or redeemer, and taxing unit; certificate and tax duplicate numbers; location and description of property; and amount of sale. Arr. chron. by date of sale. No index. Hdw. 1 vol. 150 pp. 12 x 8 x  $\frac{1}{2}$ ; 2 vols. 350 pp. 18 x 12 x 2, Jan. 1, 1844-Feb. 12, 1905, attic strg. room; 2 vols. 340 pp. 18 x 12 x 3, Feb. 13, 1905-, aud. off.

289. TAX SALE CERTIFICATES, REDEEMED, 1879-. 9 f. b. (6 f. b. dated; 3 unlabeled). Title varies: Tax Certificates, 1879-1902, 7 f. b.; Tax Certificate of Sales, 1903-28, 1 f. b.

Tax sale certificates surrendered to auditor at end of redemption period in exchange for tax title deeds or return of redemption money, showing dates of sale, certificate, and redemption; names of purchaser and original owner of property; location and description of property; conditions of redemption; and amount of certificate. Arr. chron. by date of redemption. No index. Hdw. 6 f. b. 10 x 6 x 5, 1879-96, bsmt. strg. room; 2 f. b. 7 x 11 x 11, 11 x 20 x 12, 1897-1928, attic strg. room; 1 f. b.  $10\frac{1}{2}$  x 14 x  $4\frac{1}{2}$ , 1929-, aud. off.

290. DELINQUENT TAX SALE LISTS, Feb. 12, 1894-. 1 f. b. Lists of real property sold and subject to sale for delinquent taxes and unpaid ditch assessments, showing date of sale; year of delinquency; tax duplicate number; location, description, and assessed valuation of property; names of owner and taxing unit; and amounts of delinquent taxes, penalty, interest, and cost of advertising for sale. Arr. chron. by

date of sale. No index. Ptd.  $10\frac{1}{2}$  x 14 x  $4\frac{1}{2}$ . Aud. off.

#### OFFICIAL BONDS

291. BOND RECORD, Feb. 7, 1921-. 1 vol. (5).

Récord of bonds filed by school trustees, township trustees, and assessors, showing date, amount and conditions of bond; dates of filing and approval; and names of office, sureties, and taxing unit. Arr. chron. by date of bond. No index. Typed. 282 pp. 18 x 12 x  $2\frac{1}{2}$ . Aud. vt.

292. OFFICER'S BONDS, 1896-. 1 f. b.

Original bonds filed by county officials, showing information as in entry 291. Also contains: Trustees' bonds, entry 294; assessors' bonds, entry 293. Arr. chron. by date of bond. No index. Hdw.  $10\frac{1}{2}$  x  $4\frac{1}{2}$  x 22. Aud. vt.

293. ASSESSOR'S BOND, 1880-95. 1 f. b. 1896 -in  
Officer's Bonds, entry 292.

Original bonds filed by township assessors, showing date, amount, and conditions of bond, and names of taxing unit, assessor, and sureties. Arr. chron. by date of bond. No index. Hdw. 10 x 6 x 5. Bsmt. strg. room.

294. TRUSTEES' BOND, 1880-95. 2 f. b. (13, 14). 1896-  
in Officers Bonds, entry 292.

Original bonds filed by township trustees, showing date, amount, and conditions of bond and names of township, trustee, and sureties. Arr. chron. by date of bond. No index. Hdw. 10 x 6 x 5. Bsmt. strg. room.

295. RECORD OF TRUSTEES & ASSESSOR'S BONDS, April 10,  
1876-Feb. 16, 1865. 1 vol.

Record of bonds filed by township trustees and assessors, showing date, amount, and conditions of bond, and names of township, official bonded, and sureties. Arr. alph. by name of trustee or assessor. No index. Hdw. 80 pp. 16 x  $11\frac{1}{4}$  x 1. Attic strg. room.

#### MISCELLANEOUS RECORDS

296. EXAMINATION PUBLIC RECORDS, May 23, 1930-. 1 f. b.  
1911-May 22, 1930 in Field Examiners Allowance,  
entry 297.

Reports of audits of county officials' records by field examiners to State Board of Accounts, showing dates of audit, period covered, and report; names of official, office, and field examiner; statement of conditions of accounts; and recommen-

dations. Arr. chron. by date of audit. No index. Typed. 10½ x 14 x 4½. Aud.off.

297. FIELD EXAMNERS ALLOWANCE, 1911-. 1 f. b.

Expense statements by field examiners of State Board of Accounts, showing date, amount, and number of statement; names of field examiner and office examined; and itemized statement of expenses. Also contains: Examination of public records, 1911-May 22, 1930, entry 296. Arr. chron. by date of statement. No index. Hdw. 10½ x 14 x 4½. Aud. off.

298. MONTHLY REPORTS CO[unty] OFFICERS [and County Farm Superintendent] FEES, ETC., Sept. 28, 1904-. 1 f. b.

Contains:

- i. Copies of requisitions for groceries and supplies for county farm, showing dates of requisition and filing and itemized statement of groceries and supplies required. Arr. chron. by date of filing.
- ii. Monthly reports by county officers and superintendent of county farm of fees and moneys collected, showing date of report, names of official and office, and amount and nature of fees and moneys collected. Arr. chron. by date of report.

No index. Hdw. 10½ x 4½ x 14. Aud. off.

299. QUARTERLY AND MONTHLY REPORTS TO AUDITOR, 1921-28. 1 f. b.

County officers quarterly and monthly reports to county auditor of fees collected and paid to treasurer, showing date of report, names of official and office, and nature and amount of fees. Arr. chron. by date of report. No index. Hdw. 10½ x 4½ x 22. Aud. off.

300. COUNTY OFFICERS REPORTS TO AUDITOR, FEES, 1903-16. 1 f. b.

Monthly reports by county officials to auditor of fees collected, showing information as in entry 299. Arr. chron. by date of report. No index. Hdw. 10½ x 4½ x 22. Aud. vt.

301. SHERIFF'S REPORT TO AUDITOR OF FEES COLLECTED, 1893-95. 1 f. b.

Reports by sheriff to auditor of fees collected, showing information as in entry 299. Arr. chron. by date of report. No index. Hdw. 10 x 6 x 5. Bsmt. strg. room.

302. AUDITOR'S ANNUAL REPORTS, 1866-96, 1916-. 3 f. b. Copies of auditor's annual financial reports to board of county commissioners, showing date of report; amounts of previous balance, receipts, and disbursements; balance of each fund and total balance; itemized statement of county indebtedness;



county tax rate; and names of county and township officials. Arr. chron. by date of report. No index. Hdw. 1866-96; typed 1916-. 2 f.b. 10 x 6 x 5, 1866-96, bsmt. strg. room; 1 f. b. 10½ x 4½ x 22, 1916-, aud. vt.

303. MONTHLY TAX REPORT, 1933-. 2 f. b.

Monthly reports by treasurer to auditor of intangible tax payments from banks and building and loan associations, showing date of report and payment, name of payer, and amount of payment. Arr. chron. by date of report. No index. Hdw. 11 x 12 x 20. 1 f. b., 1933-39, attic strg. room; 1 f.b., 1940-, aud. vt.

304. CONTINUATION SHEETS AND ALLOWANCE SCHEDULES OF COUNTY WELFARE FUND, April 1936-. 2 f. b.

Continuation sheets and allowance schedules for old-age assistance, showing name and mailing address of recipient, warrant number, amounts of allowance and warrant, and date of payment. Arr. chron. by date of payment. No index. Typed. 10½ x 4½ x 22. Aud. vt.

305. TUBERCULAR PATIENTS IN OTHER THAN STATE INSTITUTIONS], July 2, 1938-. 1 f. b.

Reports by officials in charge of sanitoriums other than State institutions to county auditor concerning tubercular patients, showing dates of report and patient's entry in sanatorium; name, age, and sex of patient; weight as entered and date of report; medical history and condition of patient; and names of sanatorium and official in charge. Arr. chron. by date of entry of patient. No index. Hdw. 10½ x 14 x 4½. Aud. off.

306. STATIONERY ACCOUNT BOOK, Feb. 14, 1859-April 24, 1902. 1 vol.

Record of orders for books and stationery ordered from various firms by the county auditor, showing date of order, name of firm, items ordered, and cot. Arr. chron. by date of order. No index. Hdw. 474 pp. 14 x 9 x 1½. Attic strg. room.

307. LIST OF PERSONS [Enumeration Report], 1880-. 9 vols.

Record of enumerations of inhabitants of Fulton County, showing name, address, age, sex and color of inhabitant, and date of enumeration. Arr. alph. by name of inhabitant. No index. Hdw. 92 pp. 15 x 10 x ¼. Attic strg. room.

308. ASSISTANT HIGHWAY SUPERVISORS RECEIPTS, 1937-. 1 f. b.

Receipts for money paid for labor on county highways performed by assistant highway supervisors, showing date and amount of receipt and nature of work performed. Arr. chron. by date of receipt. No index. Hdw. 10½ x 4½ x 22. Aud. vt.

## XXVIII. REGISTRATION OFFICER

## LEGAL STATUS

The clerk of the circuit court serves ex officio as the registration officer of Fulton County under the requirements of acts of 1933 and 1935.<sup>1</sup>

The registration officer may appoint as many deputy registration officers for the county as may be necessary. They are selected as nearly as practicable in equal numbers from the two major political parties, on the written recommendation of the county chairman of each party. They receive a certificate of appointment which they must keep with them when about their official duties, and must take an oath administered by the clerk of the circuit court. The clerk of each city and town in the county is an ex officio deputy registration officer. A list of all deputy registration officers is kept in the office of the clerk of the circuit court and is open to public inspection. All deputy registration officers act under the direction, supervision, and authority of the clerk of the circuit court. The appointed deputies may be removed from office by the clerk at any time.<sup>2</sup>

For each registration blank or transfer of registration which the clerk of the circuit court fills out and executes, he receives compensation in an amount (fixed by the board of county commissioners) not exceeding 4 cents. Each deputy registration officer receives compensation in an amount (fixed by the board of county commissioners) not exceeding 5 cents for each registration blank or transfer of registration which he delivers, properly filled out and executed, to the clerk of the circuit court. The board of county commissioners authorizes reasonable compensation to the clerk of the circuit court for the additional services rendered by him as registration officer.<sup>3</sup>

The Constitution prescribes the qualifications of voters.<sup>4</sup> An amendment of the Constitution in 1881 directed the General Assembly to provide for the registration of all persons entitled to vote, and an amendment in 1926 authorized, but did not require, such registration laws.<sup>5</sup>

Many laws for registration have been enacted. An act of 1867, establishing a township board of registry, consisting of the

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<sup>1</sup> Acts 1933, 1935; Burns, 1940 suppl., 29-306; Baldwin, 1935 suppl., 7304.

<sup>2</sup> *Ibid.*

<sup>3</sup> Acts 1933, 1935; Burns, 1940 suppl., 29-306, 29-329; Baldwin, 1935 suppl., 7304, 7327.

<sup>4</sup> Const. 1851, art. 2, secs. 2

<sup>5</sup> *Ibid.*, sec. 14 (as amended in 1881 and 1926).

township trustee and two freeholders appointed by the board of commissioners,<sup>6</sup> was repealed in 1869.<sup>7</sup> Acts of 1889<sup>8</sup> and 1891,<sup>9</sup> providing for registration in the office of the clerk of the circuit court, were declared unconstitutional in 1890<sup>10</sup> and 1892,<sup>11</sup> respectively. An act of 1911, providing for a precinct registration board, consisting of a registration inspector (appointed by the board of commissioners) and two registration clerks (appointed by the registration inspector),<sup>12</sup> was repealed in 1917.<sup>13</sup> An act of 1917, creating a board of registration commissioners (generally called the "registration board"), consisting of the clerk of the circuit court and two qualified electors appointed by him (one from each of the two major political parties),<sup>14</sup> was repealed in 1919.<sup>15</sup> An act of 1919, creating precinct registration boards,<sup>16</sup> was amended by an act of 1925, creating a registration board consisting of the auditor and a person of opposite political faith appointed by him;<sup>17</sup> and both acts were repealed in 1927.<sup>18</sup> Acts of 1933 and 1935, established the present system of registration.<sup>19</sup> There was no registration system from 1869 until 1889, 1892 until 1911, and 1927 until 1933.

#### FUNCTIONS AND RECORDS

Registration of all voters is a requirement for voting at any general election, primary election, city election, or any special election in which all qualified voters of the State may participate. Such registration must be made at least 29

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<sup>6</sup> Acts 1867, ch. 51, sec. 2.

<sup>7</sup> Acts 1869 (Spec. Sess.), ch. 31, sec. 1.

<sup>8</sup> Acts 1889, ch. 87, sec. 13.

<sup>9</sup> Acts 1891, ch. 144, sec. 1.

<sup>10</sup> *Morris v. Powell*, 125 Ind. 281, 25 N. E. 221 (1890).

<sup>11</sup> *Brewer v. McClelland*, 144 Ind. 423, 32 N. E. 299 (1892).

<sup>12</sup> Acts 1911, ch. 150, secs. 3-15.

<sup>13</sup> Acts 1917, ch. 139, sec. 47.

<sup>14</sup> *Ibid.*, sec. 4.

<sup>15</sup> Acts 1919, ch. 150, sec. 1.

<sup>16</sup> *Ibid.*, ch. 186, sec. 4.

<sup>17</sup> Acts 1925, ch. 138, sec. 1.

<sup>18</sup> Acts 1927, ch. 195, sec. 1.

<sup>19</sup> Acts 1933, ch. 178. Acts 1933, 1935; Burns, 1940 suppl., 29-306, 29-311 to 29-314; Baldwin, 1935 suppl., 7304, 7309 to 7312. Acts 1933; Burns 29-309; Baldwin 7307.

days before the election.<sup>20</sup> On proper application every person is entitled to register for voting in the precinct in which he resides, provided such person (a) will be at least 21 years old at the next ensuing general election or city election, (b) is a citizen of the United States, and (c) will, at the time of such election (if he continues to reside in the same ward or precinct), have resided in the State 6 months, in the township 60 days, and in the ward or precinct 30 days.<sup>21</sup>

The registration officer has full charge and control of the registration of the voters and provides all the necessary books and supplies.<sup>22</sup> The deputy registration officers may register voters at such places within the county as the clerk of the circuit court shall designate and which will be deemed most convenient to large numbers of voters without reference to precincts.<sup>23</sup> They can administer all oaths required by the registration laws.<sup>24</sup> Every voter who desires to register must execute an affidavit before a registration official setting forth the required information pertaining to his qualifications as a voter.<sup>25</sup>

The "official registration books" consist of the original affidavits of registration<sup>26</sup> and constitute a permanent registration record. The clerk also keeps a duplicate set of these affidavits.<sup>27</sup> The clerk, not later than 10 days before the election, prepares typewritten or photostatic copies of the registration list of each precinct in the county, and delivers one copy to the county chairman of each of the two major political parties. Two copies of the list are delivered to each election inspector, as a part of the sealed package of election supplies, to be used at the polls on election day. Other copies may be publicly inspected at the office of the

<sup>20</sup> Acts 1933; Burns 29-301, 29-307, 29-335; Baldwin 7299, 7305, 7333. Acts 1933, 1935; Burns, 1940 suppl., 29-336; Baldwin, 1935 suppl., 7334.

<sup>21</sup> Acts 1933; Burns 29-328; Baldwin 7326.

<sup>22</sup> Acts 1933, 1935; Burns, 1940 suppl., 29-306, 29-309; Baldwin, 1935 suppl., 7304, 7307.

Manner of registering. Acts 1933; Burns 29-308 to 29-310; Baldwin 7306 to 7308. Acts 1933, 1935; Burns, 1940 suppl., 29-311 to 29-313; Baldwin, 1935 suppl., 7309 to 7311.

Penalty for false statement, false signature, or violation of registration law. Acts 1933; Burns 29-339; Baldwin 7337.

<sup>23</sup> Acts 1933, 1935; Burns, 1940 suppl., 29-311; Baldwin, 1935 suppl., 7309.

<sup>24</sup> Acts 1933, 1935; Burns, 1940 suppl., 29-306; Baldwin, 1935 suppl., 7304.

<sup>25</sup> Acts 1933; Burns 29-313; Baldwin 7311.

<sup>26</sup> Acts 1933; Burns 29-316; Baldwin 7314.

<sup>27</sup> Acts 1933; Burns 29-302, 29-315; Baldwin 7300, 7313.



clerk as soon as they are completed.<sup>28</sup> Registration supplies and the original affidavits of registration are delivered by the clerk to the election inspectors for use at the voting places on election day, and are returned to the clerk when the precinct officials complete their duties.<sup>29</sup>

Except as hereinafter otherwise stated, any voter whose name was placed on the registration books of any precinct in this State after May 21, 1933 while such voter was a resident of that precinct is not required to register again, so long as (a) he continues to reside in the same county and precinct in which he is registered and (b) is not disfranchised for any cause prescribed by the laws of the State and (c) his registration is not canceled.<sup>30</sup> The clerk will cancel the registration of any voter who requests such cancellation.<sup>31</sup>

On a change of residence within the county, any registered voter may cause his registration to be transferred to his new address by sending a transfer to the clerk or by applying in person to the clerk for such transfer. If the voter changes his residence from the county in which he is registered to some other county, he must register in the proper precinct of the county to which he has moved and sign a printed form authorizing the cancellation of the previous registration. Within 15 days thereafter the clerk of the latter county forwards this document to the clerk of the former county, who cancels the previous registration.<sup>32</sup>

When the address of a voter (at which the voter continues to reside) is transferred to another precinct by a change of precinct boundaries or by creation of a new precinct, the clerk must transfer the voter's registration accordingly, and it is not necessary for the voter to apply for such transfer.<sup>33</sup>

If the clerk of the circuit court mails to a registered voter, at his registered address, a notice stating that the clerk has received information (specifying the source thereof)

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<sup>28</sup> Acts 1933, 1935; Burns, 1940 suppl., 29-317; Baldwin, 1935 suppl., 7315.

<sup>29</sup> Acts 1933; Burns 29-316, 29-331; Baldwin 7314, 7329.

<sup>30</sup> Acts 1933; Burns 29-303, 29-308; Baldwin 7301, 7306. Information obtained from Fred Gause, member State Board of Election Commissioners, on December 10, 1940 by William E. Chambers.

<sup>31</sup> Acts 1933; Burns 29-324, 29-327; Baldwin 7322, 7325.

<sup>32</sup> Acts 1933, 1935; Burns 1940 suppl., 29-314; Baldwin 1935 suppl., 7312.

<sup>33</sup> Acts 1933; Burns 29-318, 29-319; Baldwin 7316, 7317.

that the voter has moved away from the county, precinct, or address at which he is registered, the registration of the voter will be canceled unless the voter applies for a continuance of registration within 30 days after the mailing of the notice.<sup>34</sup>

If a voter's name is changed by marriage or by court order, the voter's previous registration cannot serve as a basis for voting unless before receiving a ballot the voter files a verified statement setting forth the name under which such voter is registered and the name of such voter as changed. This statement may be filed with the clerk of the circuit court on any day or with another member of the election board on election day.<sup>35</sup>

Any voter of the county or city may challenge the registration of any registered voter of such county or city by submitting an affidavit to the clerk of the circuit court, not later than 2 weeks before any primary election, general election, or city election. This affidavit must state that such voter is not qualified to vote in the precinct in which he is registered and must specify reasons why such challenged voter is disqualified. The clerk then mails to the challenged voter, at his registered address, a notification of such challenge. In order to vote at such election the challenged voter must take an oath as required by law for voters challenged at an election. The oath may be taken before the clerk within 7 days after mailing the notice or may be taken before the election inspector at the election.<sup>36</sup>

During the month of January following such general election the clerk must examine the registration books of each precinct and must note the names of all voters who have not voted within a period of 2 years. The clerk must then mail to each such voter, at his last known address, a notice on a printed form prescribed by law. The registration of any such voter will be cancelled unless the voter applies for reinstatement of registration within 30 days after the mailing of such notice.<sup>37</sup>

It is the duty of the registration officer to check the registration lists continually for deceased and disfranchised voters.

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<sup>34</sup> Acts 1933; Burns 29-326, 29-327; Baldwin 7324, 7325.

<sup>35</sup> Acts 1933, 1939; Burns 1940 suppl., 29-330; Baldwin, 1939 suppl., 7328.

<sup>36</sup> Acts 1933; Burns 29-325, 29-327; Baldwin 7323, 7325.

<sup>37</sup> Acts 1933; Burns 29-320; Baldwin 7318.

<sup>38</sup> Acts 1933; Burns 29-321, 29-322, 29-327; Baldwin 7319, 7320, 7325.

Lists of deceased voters are obtained from local health officers, and the clerk prepares a list of all disfranchised voters.<sup>38</sup>

If the board of county commissioners determines that the registration books of any precinct have been destroyed or mutilated or inaccessible or are for any other reasonable cause unfit to be used, a new registration must be conducted in that precinct and every voter residing in that precinct must register.<sup>39</sup>

The expense of the preparation of registration is paid out of the general fund of the county treasury, as directed by the board of county commissioners, after appropriation by the county council. The expense of preparing lists of registered voters for use in a city election is paid by the city, after appropriation by its common council.<sup>40</sup>

All forms, blanks, records, and other supplies used in the registration of voters are prescribed by the State Board of Election Commissioners for the purpose of uniformity in the registration records of the State.<sup>41</sup>

309. [REGISTRATION CARDS], 1914-. 3 f. d.

Duplicate registration cards of all voters in county, showing information as in entry 310. Arr. by name of township and alph. thereunder by name of voter. Hdw. 30 x 20 x 5. Clk. off.

310. [REGISTER OF VOTERS], 1914-. 18 vols.

Register of all voters in county, showing date of registration; name, age, sex, address, and place of birth of voter; duration as resident in State, county, ward, and precinct; names of registration officer and township; and registration, ward, and precinct numbers. Arr. by name of t. Indexed alph. by name of voter. Hdw. 350 pp. 5½ x 10 x 4. Attic strg. room.

## XXIX. BOARD OF PRIMARY ELECTION COMMISSIONERS

### EVOLUTION AND STRUCTURAL ORGANIZATION

The board of primary election commissioners has existed in Fulton County ever since 1915 under the requirements of an act of 1915. The board is composed of the clerk of the circuit court and two persons appointed by him (one from each of the two major political parties, nominated by their

<sup>39</sup> Acts 1933; Burns 29-304; Baldwin 7302.

<sup>40</sup> Acts 1933; Burns 29-305; Baldwin 7303.

<sup>41</sup> Acts 1933; Burns 29-334; Baldwin 7332.

respective county chairmen).<sup>1</sup> The appointed members must be electors of the county at the time of their appointment, must have been inhabitants thereof during the preceding year, must reside within the county after their appointment,<sup>2</sup> must serve as members of the county board of canvassers and county board of election commissioners during the calendar year in which they were appointed,<sup>3</sup> must not hold any other appointive or elective public office,<sup>4</sup> and must take an oath to support the State and Federal Constitutions and faithfully discharge their duties.<sup>5</sup> Each member of the board is allowed \$75 for his services at any primary election.<sup>6</sup>

For sufficient legal causes any member of the board of primary election commissioners may be removed from office by the circuit court, after trial by jury on an accusation presented by the grand jury or verified by the oath of any person.<sup>7</sup> If any member is convicted of a felony the judgment of conviction must declare his office vacant.<sup>8</sup> A vacancy in the office of an appointed member is filled through appointment by the clerk of the circuit court.<sup>9</sup>

Before 1907 nominations were strictly a party affair. At first candidates were proposed by a mass meeting, or by an informed caucus which could be a meeting of all the voters of the party in the precinct or other political units. Out of the latter developed the party convention—an assembly of official delegates chosen by the electors of the party at primary elections.<sup>10</sup>

<sup>1</sup> Acts 1915, 1917; Burns 29-504; Baldwin 7190. The amendment of 1917 merely added a compensatory provision which was superseded by an act of 1935. See footnote 6 herein.

<sup>2</sup> Const. 1851, art. 6, secs. 4, 6.

<sup>3</sup> Acts 1915, 1917; Burns 29-504; Baldwin 7190. Acts 1905, 1927; Burns 29-1401; Baldwin 7377. See the essays entitled "County Board of Canvassers" and "County Board of Election Commissioners,"

<sup>4</sup> Acts 1915, 1917; Burns 29-512; Baldwin 7198.

<sup>5</sup> Const. 1851, art. 15, sec. 4. 1 Rev. Stat. 1852; Burns 49-101; Baldwin 13054.

<sup>6</sup> Acts 1915, 1917; Burns 29-504; Baldwin 7190. Acts 1935; Burns, 1941 suppl., 29-1014; Baldwin, 1935 suppl., 7109-1.

Mandamus to compel appropriations for compensation. *Blue v. State ex rel. Powell*, 210 Ind. 486, 1 N. E. (2d) 122 (1936).

<sup>7</sup> Const. 1851, art. 2, secs. 6, 7; art. 6, sec. 8. Acts 1897, 1899; Burns 49-821 to 49-834, 49-836; Baldwin 13154 to 13169, 13050, 13168. Acts 1875; Burns 49-837; Baldwin 13052.

<sup>8</sup> Acts 1897, 1899; Burns 49-834; Baldwin 13050.

<sup>9</sup> Acts 1915, 1917; Burns 29-504; Baldwin 7190.

For vacancy in the office of clerk, see the essay entitled "Clerk of the Circuit Court."

<sup>10</sup> Alma Sickler Bender, *Why Go Back? . . . from the Direct Primary to the Convention System of Nomination*, p. 21.



Indiana was one of the first States to adopt the primary election as a means of choosing candidates. The law of 1889, which instituted the Australian ballot system, recognized the right of a political party to hold a primary election, under the control of the chairman who certified the names of the nominees to the county board of election commissioners.<sup>11</sup>

An act of 1901, applicable to all political parties casting 10 percent of the total vote at the preceding general election, provided for the organization of political parties and the holding of two primary elections—one for precinct committeemen, and one for direct nomination of candidates or for election of delegates to a nominating convention. The precinct committeemen elected at the first primary election determined whether the party candidates should be nominated at a primary election or by a delegate convention. For a primary election the party chairman was required to fix the date thereof and deliver to the county board of election commissioners the names of the candidates proposed by petition. This board was required to prepare the primary ballot. No two political parties could hold their primaries at the same time or place. Returns were made to the party board of primary election commissioners. This board declared the nominees of the party, and the chairman of the board certified their names to the county board of election commissioners.<sup>12</sup>

An act of 1907 prescribed a direct primary election, under the supervision of a county board of primary election commissioners, for the nomination of party candidates for all county and township offices. The act was mandatory in each county containing cities having a population of 36,000 or over, and was optional in other counties. This board consisted of the same membership as at present and its members acted as election commissioners at the general election. This primary election included all political parties casting 10 percent of the total vote at the preceding general election, and was conducted by bipartisan precinct election boards paid from county funds.<sup>13</sup>

#### FUNCTIONS AND RECORDS

The present primary election law is mandatory as to each political party casting in the county for its candidate for Secretary of State 10 percent of the aggregate vote cast in the county for all candidates for Secretary of State at the

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<sup>11</sup> Acts 1889, ch. 87, secs. 17, 18, 26.

<sup>12</sup> Acts 1901, ch. 219, secs. 1-4, 6-11, 25.

<sup>13</sup> Acts 1907, ch. 282, secs. 1, 2, 6, 10-15, 22, 57.

last preceding general election. This law provides for the nomination of Congressional, county, township, and city candidates and the election of precinct committeemen and State convention delegates of all such political parties, all in one primary election held biennially, at the same time and place, on the first Tuesday after the first Monday in May, in the even-numbered years.<sup>14</sup>

The board of primary election commissioners supervises primary elections. It prepares and distributes all ballots used in the county (except for town primaries),<sup>15</sup>—the names of candidates being arranged thereon in alphabetical order.<sup>16</sup> At all primary elections the Australian ballot is used. It is made up of the printed tickets of the several political parties qualified for participation in the election. The tickets of each party are on paper of a color not used for the tickets of the other parties, but all tickets are uniform in size.<sup>17</sup>

Between 30 and 60 days before any primary election the declaration of candidacy for the offices of United States Representatives, State Senators and Representatives, and judicial officers (including the judge of the circuit court, prosecuting attorney, and justices of the peace) are filed by the candidates with the Secretary of State and are certified by him to the clerk of the circuit court; and during the same time the declarations of candidacy for other offices (except town offices and those voted on by the voters of the whole state) are filed by the candidates with the clerk of the circuit court. Nominations for these offices are made at the primary election.<sup>18</sup>

<sup>14</sup> Acts 1915; Burns 29-501; Baldwin 7187. Acts 1915, 1917, 1925, 1929; Burns 29-511, 29-512; Baldwin 7196, 7197. Acts 1915, 1939; Burns, 1941 suppl., 29-532; Baldwin, 1939 suppl., 7218.

"Courts of equity have no jurisdiction to interfere in the purely political activities of political party organization." State ex rel. Democratic Central Committee v. Superior Court, 214 Ind. 322, 15 N. E. (2d) 379 (1938).

<sup>15</sup> Acts 1915, 1917; Burns 29-504; Baldwin 7190.

<sup>16</sup> Acts 1915, 1937; Burns, 1941 suppl., 29-515; Baldwin, 1937 suppl., 7201.

<sup>17</sup> Acts 1915, 1917; Burns 29-504, 29-514; Baldwin 7190, 7200.

<sup>18</sup> Acts 1915; Burns 29-501; Baldwin 7187. Acts 1915, 1917, 1933, 1935, 1941; Burns, 1941 suppl., 29-513; Baldwin, 1941 suppl., 7199. Acts 1915, 1931, 1935; Burns, 1941 suppl., 29-516; Baldwin, 1935 suppl., 7202. Acts 1915, 1929; Burns 29-531; Baldwin 7217. Acts 1933; Burns 29-1807; Baldwin 11639.

The prosecuting attorney is a judicial officer. State ex rel. Freed v. Circuit Court, 214 Ind. 152, 14 N. E. (2d) 910 (1938); State ex rel. Spencer v. Criminal Court, 214 Ind. 551, 15 N. E. (2d) 1020 (1938).

Nominations for delegates to the State conventions of the respective political parties are made by petitions filed with the clerk at least 30 days before the primary election. These delegates are elected at the primary election.<sup>19</sup>

Primary elections are conducted by the following officials in each precinct: One election inspector, two election judges, two poll clerks, two election sheriffs, and one pollbook holder for each political party participating in the election. Their qualifications and duties are the same as those of the corresponding precinct officials for general elections. The inspector, judges, and clerks are appointed as follows: The party casting the highest vote in the county for Secretary of State at the last general election appoints the inspector, the party casting the next highest vote appoints one election judge, and so on in rotation among all parties participating in the election. The sheriffs and pollbook holders are appointed in the manner in which they are appointed for general elections. Each of these officials except pollbook holders is allowed \$3 per day for his services rendered in connection with a primary election. The pollbook holders are paid by their respective political parties in a sum not to exceed \$3 per day.<sup>20</sup> The board of primary election commissioners may employ all necessary clerical assistants.<sup>21</sup>

The statutory provisions governing the manner of conducting general elections apply to all primary elections.<sup>22</sup> All expenses of conducting primary elections are paid from public funds.<sup>23</sup>

Certificates and petitions of nominations, ballots (cast and uncast), and tally papers at primary elections are filed in the office of the clerk of the circuit court where they are preserved for 6 months and are then destroyed, unless litigation requires preservation for a longer time.<sup>24</sup>

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<sup>19</sup> Acts 1915, 1939; Burns, 1941 suppl., 29-532; Baldwin, 1939 suppl., 7218.

<sup>20</sup> Acts 1915, 1917; Burns 29-505, 29-507, 29-519; Baldwin 7191, 7193, 7205. Acts 1929, 1933, 1941; Burns, 1941 suppl., 29-804; Baldwin, 1941 suppl., 7093. Acts 1929; Burns 29-805 to 29-807; Baldwin 7094 to 7096. *Finerty v. Bryan*, 214 Ind. 570, 16 N. E. (2d) 882 (1938). See the essay entitled "County Board of Election Commissioners."

<sup>21</sup> Acts 1915, 1917; Burns 29-504; Baldwin 7190.

<sup>22</sup> Acts 1915; Burns 29-556, 29-559; Baldwin 7242, 7244.

<sup>23</sup> Acts 1915; Burns 29-534; Baldwin 7220. Acts 1933; Burns 29-1805; Baldwin 11637.

<sup>24</sup> Acts 1915, 1917; Burns 29-525; Baldwin 7211. Acts 1889; Burns 29-1009; Baldwin 7112. Acts 1897, 1901, 1909, 1941 suppl., 29-1301; Baldwin, 1941 suppl., 7147. Acts 1915; Burns 29-1304; Baldwin 7546. Acts 1911; Burns 26-2510; Baldwin 7447.

311. ELECTION RECORD, 1892-. In Election Record, entry 317.

Record of primary elections, showing information as in entry 317.

### XXX. COUNTY BOARD OF ELECTION COMMISSIONERS

#### LEGAL STATUS

The county board of election commissioners has existed in Fulton County ever since 1889 under the requirements of an act of 1889. The board consists of the clerk of the circuit court and two persons appointed by him (one from each of the two major political parties, nominated by their respective county chairman).<sup>1</sup> The appointed members must be electors of the county at the time of their appointment, must have been inhabitants thereof during the preceding year, must reside within the county after their appointment,<sup>2</sup> must serve as members of the county board of canvassers, and must take an oath to support the State and Federal Constitutions and faithfully discharge their duties.<sup>3</sup> Each member of the board is allowed \$75 for his services at any general or special election.<sup>4</sup>

For sufficient legal causes any member of the county board of election commissioners may be removed from office by the circuit court, after trial by jury on an accusation presented by the grand jury or verified by oath of any person.<sup>5</sup> If any member be convicted of a felony the judgment of conviction must declare his office vacant.<sup>6</sup> The clerk of the circuit court fills vacancies as to members appointed by him.<sup>7</sup>

<sup>1</sup> Acts 1889; Burns 29-1002; Baldwin 7109.

<sup>2</sup> Const. 1851, art. 6, secs. 4, 6.

<sup>3</sup> *Ibid.*, art. 15, sec. 4. 1 Rev. Stat. 1852; Burns 49-101; Baldwin 13054. See the essay entitled "Board of Primary Election Commissioners" and "County Board of Canvassers."

For the eligibility, election, term, oath, and bond of the clerk of the circuit court, see the essay entitled "Clerk of the Circuit Court."

<sup>4</sup> Acts 1935; Burns, 1941 suppl., 29-1014; Baldwin, 1935 suppl., 7109-1. Op. Atty. Gen. 1935, p. 320.

Mandamus to compel appropriation for compensation. *Blue v. State ex rel. Powell*, 210 Ind. 486, 1 N. E. (2d) 122 (1936).

<sup>5</sup> Const. 1851, art. 2, secs. 6, 7; art. 6, sec. 6. Acts 1897, 1899; Burns 49-821 to 49-834, 49-836; Baldwin 13154 to 13166, 13050, 13168. Acts 1875; Burns 49-837; Baldwin 13052.

<sup>6</sup> Acts 1897, 1899; Burns 49-834; Baldwin 13050.

<sup>7</sup> Acts 1915, 1917; Burns 29-504; Baldwin 7190.

See the essay entitled "Clerk of the Circuit Court" for vacancy in the office of clerk.



Indiana, in 1889, was one of the first States to adopt the Australian ballot—an official ballot printed at public expense by public officers and distributed at the polls by the election officers. The board of election commissioners was established to prepare, print, and distribute the ballots and otherwise administer the election laws of the county.<sup>8</sup>

#### FUNCTIONS AND RECORDS

The Constitution fixes the date of general elections as the first Tuesday after the first Monday in November,<sup>9</sup> and an act of the General Assembly provides that they be conducted biennially in the even-numbered years.<sup>10</sup> At least 20 days before the election the clerk of the circuit court makes a certificate stating which offices are to be filled at the election. Fifteen days before the election the sheriff delivers a copy of this certificate to each township trustee in the county, posts a copy at each usual place of holding such elections in the county, and causes the publication of a copy one time in a newspaper printed in the county.<sup>11</sup> The Constitution further provides that all elections by the people must be by ballot.<sup>12</sup> This provision does not prevent the use of voting machines<sup>13</sup> (to be provided by the board of county commissioners).<sup>14</sup>

The board of county commissioners establishes the precincts<sup>15</sup> and provides all polling places, voting booths, chutes, and ballot boxes;<sup>16</sup> and the auditor furnishes blank pollbooks and other forms to the inspectors.<sup>17</sup>

The county board of election commissioners supervises general elections.<sup>18</sup> The State Board of Election Commis-

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<sup>8</sup> Acts 1899, ch. 87, secs. 17, 18, 26.

<sup>9</sup> Const. 1851, art. 2, sec. 14 (as amended in 1881).

<sup>10</sup> Acts 1881 (Spec. Sess.); Burns 29-701; Baldwin 7081.

<sup>11</sup> Acts 1881 (Spec. Sess.); Burns 29-702. *Parmater v. State ex rel. Drake*, 102 Ind. 90, 3 N. E. 382 (1884).

<sup>12</sup> Const. 1851, art. 2, sec. 13.

Marking of ballots by voters. *Craney v. Traylor*, 214 Ind. 542, 16 N. E. (2d) 845 (1936).

<sup>13</sup> *Spickerman v. Goddard*, 182 Ind. 523, 107 N. E. 2 (1914).

<sup>14</sup> Acts 1920 (Spec. Sess.); Burns 29-903; Baldwin 7148. Acts 1901, 1903; Burns 29-2404; Baldwin 7352.

<sup>15</sup> Acts 1889; Burns 29-801; Baldwin 7089. Acts 1920 (Spec. Sess.); Burns 29-901; Baldwin 7091.

<sup>16</sup> Acts 1920 (Spec. Sess.); Burns 29-909; Baldwin 7154. Acts 1897; Burns 29-1121; Baldwin 7135.

<sup>17</sup> Acts 1889; Burns 29-808; Baldwin 7097.

<sup>18</sup> Acts 1889; Burns 29-1116, 29-1117, 29-1119, 29-1120; Baldwin 7130, 7131, 7133, 7134. Acts 1903; Burns 29-2407; Baldwin 7355. Acts 1901; Burns 29-2410, 29-2426, 29-2428; Baldwin 7358, 7374, 7376.

sioners prepares and distributes to the county clerks the ballots for Federal offices, and for offices and questions to be voted on by the voters of the whole State. The county board of election commissioners prepares and distributes all other ballots used in the county (except for town elections).<sup>19</sup> Candidates nominated by convention or primary election by parties casting one-half of 1 percent of the total vote of the State at the last preceding general election, and whose nominations have been duly certified to the clerk of the circuit court, are placed on the ballot under their respective party emblems. Candidates' names may be placed on the ballot by the petition of the required number (one half of 1 percent of the total vote cast in the last preceding general election in the county) of qualified electors.<sup>20</sup> Political parties may be barred from the ballot if they advocate the overthrow, by force or violence, of the local, State, or National Government. New parties must file, with the election commissioners in charge of the ballot or ballots on which they wish to appear, an affidavit declaring that they do not advocate such an overthrow.<sup>21</sup>

In each precinct there is a "precinct board of election" composed of one inspector and two election judges. The election is conducted by these boards. Each precinct board is assisted by two election sheriffs, two poll clerks, and (if necessary) two assistant poll clerks. No person is eligible to membership on a precinct board if he has a wager on the result of the election, or is a candidate or a relative of a candidate at that election, or is an elected or appointed public official. The township trustee is ex officio inspector in his own precinct. The other inspectors are appointed by the board of election commissioners on nominations made by the county chairman of the party casting the highest number of votes in the county for Secretary of State in the preceding election. The election judges, sheriffs, poll clerks, and assistant poll clerks are of opposite political faith and are

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<sup>19</sup> Acts 1889; Burns 29-1001 to 29-1003; Baldwin 7108 to 7110. Acts 1920 (Spec. Sess.); Burns 29-1107; Baldwin 7121. Acts 1889, 1891, 1907; Burns 29-1109; Baldwin 7124. Op. Atty. Gen. 1940, p. 168.

Ballot label for voting machines. Acts 1901; Burns 29-2410; Baldwin 7538.

<sup>20</sup> Acts 1897, 1919, 1933; Burns 29-1106; Baldwin 7120. Acts 1920 (Spec. Sess.); Burns 29-1107; Baldwin 7121. Board of Election Comrs. v. State ex rel. Sides, 148 Ind. 675, 48 N. E. 226 (1897); State ex rel. Garn v. Board of Election Comrs., 167 Ind. 276, 78 N. E. 1016 (1906).

<sup>21</sup> Acts 1935, 1941; Burns, 1941 suppl., 29-1015; Baldwin, 1941 suppl., 7120-1.

appointed by the board of election commissioners on nominations made by the county chairmen of the two major political parties.<sup>22</sup> For their services at general elections the precinct election officials receive the following as minimum compensation: Each appointed inspector, \$8; each election judge, \$5; each poll clerk, \$5; each assistant poll clerk, \$5; and each election sheriff, \$3. A greater amount may be paid if provision therefor is made by the board of county commissioners at least 15 days before the election. The township trustee receives no compensation for his services as election inspector.<sup>23</sup> Each political party may appoint one challenger and one pollbook holder for each precinct, and may pay each of them compensation not exceeding \$3. These employees receive no compensation from public funds.<sup>24</sup>

City and township elections are held at the time of the general election and are under the supervision of the county board of election commissioners.<sup>25</sup> All special elections are supervised by the board.<sup>26</sup>

Elections are open from 6 o'clock in the forenoon until 4 o'clock in the afternoon, after which time the precinct election board may close the election in any precinct at any time when all the electors of that precinct have voted or when 15 minutes have passed without a vote having been cast in that precinct. Elections are open until 6 o'clock in the afternoon unless previously closed as aforesaid.<sup>27</sup> All pencils used in marking the ballots must be destroyed before the counting of ballots begins.<sup>28</sup>

The board has full power to send for persons and papers and compel witnesses to testify concerning matters bearing on the proper discharge of the board's duties. The sheriff serves all process in county elections and obeys orders of the board.<sup>29</sup>

Records of all general elections are placed in sealed

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<sup>22</sup> Acts 1915, 1917; Burns 29-512; Baldwin 7168. Acts 1929, 1933, 1941; Burns, 1941 suppl., 29-804; Baldwin, 1941 suppl., 7093. Acts 1929; Burns 29-805 to 29-807; Baldwin 7094 to 7096.

<sup>23</sup> Acts 1920 (Spec. Sess.), 1933, 1941; Burns, 1941 suppl., 29-910; Baldwin, 1941 suppl., 7155. *Holmes v. Board of County Comrs.*, 78 Ind. App. 206, 135 N. E. 154 (1922).

<sup>24</sup> Acts 1929; Burns 29-806; Baldwin 7095.

<sup>25</sup> Acts 1889, 1891; Burns 29-1612; Baldwin 7170. Acts 1933; Burns 29-1801, 29-1803; Baldwin 11632, 11635. Acts 1933, 1935; Burns, 1941 suppl., 29-1901; Baldwin, 1935 suppl., 7250.

<sup>26</sup> Acts 1889; Burns 29-1611; Baldwin 7169. Acts 1881; Burns 29-1704; Baldwin 7249.

<sup>27</sup> Acts 1915; Burns 29-520; Baldwin 7206. Acts 1889, 1899; Burns 29-1103; Baldwin 7103.

<sup>28</sup> Acts 1915; Burns 29-1305; Baldwin 7457.

<sup>29</sup> Acts 1905; Burns 29-1408; Baldwin 7384.

bags and filed in the office of the clerk of the circuit court for preservation as provided by statute <sup>30</sup>

312. RECORD OF ELECTION SHERIFFS, Nov. 2, 1910-Nov. 4, 1912. 1 vol. (1).

Record of appointments of election sheriffs, showing name of appointee and date of appointment. Arr. chron. by date of appointment. No index. Hdw. 250 pp. 14 x 8½ x 1. Attic strg. room.

313. ELECTION RECORD, 1892-. 2 vols. (1 vol. dated; 1 vol. unlabeled).

Record of general elections, showing date of election; names of election commissioners and officials, successful and defeated candidates and office sought; and number of ballots delivered and returned. Arr. chron. by date of election. No index. Hdw. 161 pp. 18 x 12 x 2½. Clk. vt.

### XXXI. COUNTY BOARD OF CANVASSERS

#### EVOLUTON AND STRUCTURAL ORGANIZATION

The county board of canvassers has existed in Fulton County ever since 1844 under the requirements of acts of 1843, 1852, 1881, and 1905. The county board which controls the holding of an election (board of primary election commissioners or county board of election commissioners) must also serve as the county board of canvassers at that election with no additional remuneration. From 1844 until 1905 the board was composed of the election inspectors of the several townships. The board has always designated one of its members to serve as chairman; and the clerk of the circuit court has always acted as its clerk.<sup>1</sup>

#### FUNCTIONS AND RECORDS

Each precinct board of election,<sup>2</sup> after closing the polls

<sup>30</sup> Acts 1920 (Spec. Sess.); Burns 29-912; Baldwin 7157. Acts 1889; Burns 29-1009; Baldwin 7113. Acts 1897, 1901, 1909, 1941; Burns, 1941 suppl., 29-1301; Baldwin, 1941 suppl., 7147. Acts 1915; Burns 29-1304; Baldwin 7456. Acts 1911, 1913, 1915; Burns 29-2508; Baldwin 7445. Acts 1911; Burns 29-2310; Baldwin 7447. State ex rel. Kollmeyer v. Baker, 204 Ind. 19, 182 N. E. 537 (1932).

<sup>1</sup> Rev. Stat. 1843, ch. 5, secs. 45-47. 1 Rev. Stat. 1852, ch. 31, secs. 31-33. Acts 1881 (Spec. Sess.), ch. 47, secs. 37-43. Acts 1905, 1927; Burns 29-1401, 29-1402; Baldwin 7377, 7378. See the essays entitled "Board of Primary Election Commissioners" and "County Board of Election Commissioners."

<sup>2</sup> The organization of the precinct boards is discussed in the essays entitled "Board of Primary Election Commssioners" and "County Board of Election Commissoners."



in its precinct,<sup>3</sup> views the ballots cast in that precinct; counts those ballots which are legal; rejects those ballots which are illegal; marks on each ballot the word "counted" or the words "not counted"; makes notations as to rulings on protests; lists the number of votes counted in favor of each candidate; lists the number of votes counted for and against proposed constitutional amendments and other questions submitted to the voters for decision; and transmits in sealed bags to the county board of canvassers all ballots cast, ballots uncast, lists, tally papers, memoranda, and certificates.<sup>4</sup> Information as to the results of the counting of ballots by each precinct board, as shown by its certificate delivered to the clerk of the circuit court, is immediately furnished by the clerk to newspaper reporters and editors.<sup>5</sup>

The members of the county board of canvassers are required to assemble at 6 p. m. on the day of each election, in the courtroom of the circuit court; to canvass and estimate the certificates, poll lists, and tally papers returned by each precinct board of election in the county;<sup>6</sup> to compare and examine the papers entrusted to it; to aggregate and tabulate therefrom all votes cast in the county; and to declare in a certified statement the candidates nominated or elected for the county, and each city and township thereof, and the determination of any proposed constitutional amendment or other question submitted to the voters.<sup>7</sup>

In case of a tie vote for any office, the board declares that no person was elected for that office; and the clerk must certify the facts to the tribunal or officer required to fill vacancies in such office or to issue a writ of election

<sup>3</sup> Acts 1915; Burns 29-520; Baldwin 7206. Acts 1889, 1899; Burns 29-1103; Baldwin 7103.

<sup>4</sup> Primary elections. Acts 1915, 1917; Burns 29-525; Baldwin 7211.

General elections. Acts 1816-17, ch. 9, secs. 11, 12. Acts 1817-18 (general), ch. 15, secs. 11, 12. Rev. L. 1824, ch. 35, secs. 11, 12. Rev. L. 1831, ch. 32, secs. 11, 12. Rev. Stat. 1838, ch. 32, secs. 13, 14. Acts 1897, 1901, 1909, 1941; Burns, 1941 suppl., 29-1301; Baldwin, 1941 suppl., 7147.

<sup>5</sup> Acts 1941; Burns, 1941 suppl., 29-1412; Baldwin, 1941 suppl., 7157-1.

<sup>6</sup> Acts 1905, 1927; Burns 29-1401; Baldwin 7377.

<sup>7</sup> Acts 1905; Burns 29-1404, 29-1405, 29-1407; Baldwin 7380, 7331, 7383. Moore v. Kessler, 59 Ind. 152 (1877).

Duty to disregard ballots improperly marked by voters. Craney v. Traylor, 214 Ind. 542, 16 N. E. (2d) 845 (1938).

Legislators in districts composed of more than one county. Acts 1881 (Spec. Sess.); Burns 29-1503 to 29-1505; Baldwin 7180 to 7182.

Judges, prosecuting attorney, State officers, and Federal officers. Acts 1881 (Spec. Sess.); Burns 29-1506 to 29-1509; Baldwin 7183 to 7186.

to fill the office, as the case may require.<sup>8</sup> In case of a tie vote, a city office is filled by appointment,<sup>9</sup> a township office is filled by lot,<sup>10</sup> and other offices are filled by special elections.<sup>11</sup>

In case of a disagreement among the members of the county board of canvassers as to how the vote of any precinct shall be counted, the matter in dispute must be reported immediately to the judge of the circuit court for immediate determination.<sup>12</sup>

The board has full power to send for persons and papers and compel witnesses to testify concerning matters bearing on the proper discharge of the board's duties. The sheriff executes all process and orders directed to him by the board.<sup>13</sup>

The board of canvassers employs necessary clerical assistants for the proper canvassing and tabulating of votes. Not more than one-half of the clerks employed can be from the same political party, and their compensation must not exceed \$1 per hour.<sup>14</sup>

The canvass of votes in primary<sup>15</sup> and special<sup>16</sup> elections, including votes cast for city<sup>17</sup> and township officers,<sup>18</sup> is made in the same manner as in the general election.

The ballots cast, ballots uncast, certificates, statement of all votes tabulated, canvass sheets, pollbooks, and tally papers are delivered by the county board of canvassers to the clerk of the circuit court and filed and preserved by him in his office, open to the inspection of any legal voter. These are destroyed after 6 months unless litigation requires longer preservation.<sup>19</sup>

Constitutional amendments. Const. 1851, art. 16, secs. 1, 2. Acts 1889; Burns 29-1201; 29-1202; Baldwin 7259, 7258. Acts 1911; Burns 29-1203 to 29-1207; Baldwin 7253 to 7257. In re Todd, 208 Ind. 68, 193 N. E. 865 (1935).

<sup>8</sup> Acts 1905; Burns 29-1406; Baldwin 7382.

Tie vote for State Legislators in districts composed of more than one county. Acts 1881 (Spec. Sess.); Burns 29-1505; Baldwin 7182.

<sup>9</sup> Acts 1905, 1909; Burns 48-1246; Baldwin 11424.

<sup>10</sup> Act 1933; Burns 29-1903; Baldwin 7252.

<sup>11</sup> Acts 1881 (Spec. Sess.); Burns 29-1505, 29-1701; Baldwin 7182, 7249.

<sup>12</sup> Acts 1905; Burns 29-1409; Baldwin 7385.

<sup>13</sup> Acts 1905; Burns 29-1408; Baldwin 7384.

<sup>14</sup> Acts 1920 (Spec. Sess.); Burns 29-913; Baldwin 7158.

<sup>15</sup> Acts 1915, 1917; Burns 29-525; Baldwin 7211. Acts 1915; Burns 29-560; Baldwin 7245.

<sup>16</sup> Acts 1889; Burns 29-1611; Baldwin 7169. Acts 1881 (Spec. Sess.); Burns 29-1704; Baldwin 7249.

<sup>17</sup> Acts 1889, 1891; Burns 29-1612; Baldwin 7170. Acts 1933; Burns 29-1803, 29-1807; Baldwin 11635, 11639.

<sup>18</sup> Acts 1933; Burns 29-1903; Baldwin 7252.

<sup>19</sup> Acts 1915; Burns 29-1304; Baldwin 7456. Acts 1905; Burns 29-1404; Baldwin 7380.

## 314. BOARD OF CANVASSERS, 1922-. 2 f. d. (dated).

Record of votes cast in general and primary elections, showing date of election; names of board of canvassers, political parties, office, and candidate; ward and precinct numbers; number of votes cast for each candidate by township, ward, and precinct; and total number of votes cast. Arr. chron. by date of election. No index. Hdw. 13 x 10 x 4. Clk. vt.

## XXXII. COUNTY BOARD OF EDUCATION

## EVOLUTION AND STRUCTURAL ORGANIZATION

The county board of education has existed in Fulton County ever since 1873 under the requirements of acts of 1873 and 1877. The board consists of the county superintendent of schools, the township trustees, and the president of the school board of each city and town in the county. Before 1877 all the school trustees of each city and town in the county were also included as members of the board.<sup>1</sup>

Semiannual meetings of the board are held at the office of the county superintendent of schools on the first day of May and September, except that if such day is Sunday or a holiday, the meeting is held the next day. Other meetings may be held upon the call of the county superintendent. A majority of the board members constitutes a quorum. The county superintendent presides at the meetings and casts his vote in the same manner as the other members. The board elects a secretary from among its members. The secretary and other members receive no compensation for their services.<sup>2</sup>

## FUNCTIONS AND RECORDS

The county board of education considers the general needs of the public schools within the county (including the care of school property and the purchase of school furniture, books, maps, charts, and others supplies), and makes advisory regulations concerning the same (except as to matters expressly covered by law or by a regulation of the Indiana State Board of Education); directs the care and management of township

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<sup>1</sup> Acts 1873, 1877; Burns 28-801; Baldwin 5983. Acts 1905, 1915, 1919; Burns 28-1201; Baldwin 5962. Op. Atty. Gen. 1933, p. 551.

<sup>2</sup> Acts 1873, 1877; Burns 28-801; Baldwin 5983. Fassett A. Cotton, *Education in Indiana 1793 to 1934*, p. 257.

libraries; and adopts textbooks for the schools in the county, except in cities. The State Board of Education has broad power to adopt textbooks which must be used in all the public schools in the State, but the county board may adopt supplementary textbooks on the same subjects. There are many curricular subjects on which textbooks are not adopted by the State Board. No textbook can be changed by the county board of education within 6 years after its adoption, except by the unanimous vote of all the members of the board.<sup>3</sup>

The county board of education may purchase textbooks from publishers at the net wholesale or contract price and sell them to the pupils at cost plus the cost of handling the books, not to exceed 20 percent of the cost price, or rent them to the pupils at an annual rental not to exceed 25 percent of the retail price.<sup>4</sup>

Annually the board may appoint a school attendance officer for the county, on nomination of the county superintendent of schools.<sup>5</sup> Each year the board selects one of its members to serve on the county board of tax adjustment.<sup>6</sup> The secretary of the board keeps a complete record of its meetings and proceedings.<sup>7</sup>

315. COUNTY BOARD OF EDUCATION, 1919-. 1 f. b.  
Minutes of meetings of county board of education, showing date of meeting, members present, subjects discussed, and action taken. Arr. chron. by date of meeting. No index.  
Hdw. Supt. off'

### XXXIII. COUNTY SUPERINTENDENT OF SCHOOLS

#### LEGAL STATUS

The office of county superintendent of schools (known as "county superintendent" before 1927) has existed in Fulton County ever since 1873 under the requirements of acts of 1873

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<sup>3</sup> *Ibid.* Acts 1889, 1909, 1917; Burns 28-601; Baldwin 6675. Information obtained from Floyd I. McMurray, State Superintendent of Public Instruction, on February 2, 1940, by W. Davis Hamilton.

<sup>4</sup> Acts 1921; Burns 28-614; Baldwin 6692. Acts 1935; Burns, 1941 suppl., 28-638; Baldwin, 1935 suppl., 6692-1.

<sup>5</sup> Acts 1897, ch. 165, sec. 2. Acts 1899, ch. 244, sec. 2. Acts 1901, ch. 209, sec. 2. Acts 1913, ch. 213, sec. 4. Acts 1921, 1922 (Spec. Sess.); Burns 28-501; Baldwin, 6693. See the essay entitled "County Attendance Officer."

<sup>6</sup> Acts 1637; Burns, 1941 suppl., 64-310; Baldwin, 1937 suppl., 15897-4.

<sup>7</sup> Information obtained from Floyd I. McMurray, State Superintendent of Public Instruction, on February 2, 1940, by W. Davis Hamilton.



and 1899.<sup>1</sup> The county superintendent of schools is elected for a 4-year term by the township trustees and holds office until his successor is elected and qualified. The election is held in the auditor's office and the auditor acts as clerk of the election. In case of a tie vote the auditor casts the deciding vote.<sup>2</sup> To be eligible for this office a person must have had 5 years' successful experience as a teacher and must hold a first or second grade superintendent's license.<sup>3</sup> The superintendent must post bond in the amount of \$5,000 (to be approved and filed by the auditor) and take an oath that he will support the State and Federal Constitutions and will faithfully discharge the duties of his office.<sup>4</sup>

Statutes provide that the county superintendent of schools shall receive from the county a regular salary of \$1,600 per year, that his salary may be increased by the county council after request therefor by a majority of the township trustees,<sup>5</sup>

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<sup>1</sup> Acts 1873, ch. 25. Acts 1899, ch. 143.

<sup>2</sup> Acts 1873, ch. 25, secs. 2-4, 6-8. Acts 1899, 1911, 1913; Burns 28-702; Baldwin 5931. State ex rel. Nebecker v. Sutton, 99 Ind. 300 (1884); State ex rel. Laughlin v. Porter, 113 Ind. 79, 14 N. E. 883 (1888); State ex rel. Williams v. Edwards, 114 Ind. 581, 16 N. E. 627 (1888); State ex rel. Drummond v. Dillon, 125 Ind. 65, 25 N. E. 136 (1890); State ex rel. Morris v. McFarland, 149 Ind. 266, 49 N. E. 5 (1898).

A township trustee cannot participate in the election if he is a candidate for the office. Horning v. State ex rel. Gamble, 116 Ind. 458, 19 N. E. 151 (1888). Op. Atty. Gen. 1933, p. 229.

<sup>3</sup> Acts 1927, ch. 142, sec. 1. Acts 1935; Burns, 1941 suppl., 28-701; Baldwin, 1935 suppl., 5933-1. Acts 1923; Burns 28-4209; Baldwin 5920.

Residence and citizenship. State ex rel. Jeffries v. Kilroy, 86 Ind. 118 (1882). Op. Atty. Gen. 1907, p. 163; 1929, p. 242; 1933, pp. 89, 236.

<sup>4</sup> Const. 1851, art. 15, sec. 4. Acts 1899, 1911, 1913; Burns 28-702; Baldwin 5931. 1 Rev. Stat. 1852; Burns 49-104, 49-105, 49-120; Baldwin 13057, 13063, 13068.

<sup>5</sup> Acts 1933; Burns 49-1004; Baldwin 7534. Acts 1933, 1939; Burns, 1941 suppl., 49-1014; Baldwin, 1939 suppl., 7544. Op. Atty. Gen. 1938, p. 126.

The Constitution provides that "the salary of any officer fixed by this Constitution or by law" shall not "be increased during the term for which such officer was elected or appointed," and that the General Assembly shall not pass local or special laws "in relation to fees or salaries; except that the laws may be so made as to grade the compensation of officers in proportion to the population and the necessary services required." Const. 1851, art. 4, sec. 22; art. 15, sec. 2 (as amended in 1926).

An increase in the compensation of the county superintendent of schools cannot become effective during the term of the incumbent. Op. Atty. Gen. 1939, p. 132.

The county superintendent of schools cannot receive compensation while holding over after expiration of his term and after his successor is elected and qualified. Edington v. Board of County Comrs., 105 Ind. App. 156, 13 N. E. (2d) 895 (1938).

and that he is to be reimbursed for his traveling expenses not to exceed \$300 per year.<sup>6</sup> The board of commissioners must provide and furnish an office for the county superintendent and allow and pay all costs incurred by him for postage, stationery, teachers' institute, and records required in the performance of his official duties.<sup>7</sup>

The county superintendent of schools is a member and beneficiary of the Indiana State Teachers' Retirement Fund.<sup>8</sup> He cannot conduct or assist in conducting any "private or county normal school in this State" or receive any "pay or emolument from the management of such school."<sup>9</sup> He may serve as a member of the State Board of Education if appointed to that board by the Governor.<sup>10</sup> He is a member of the county board of education and presides at its meetings.<sup>11</sup>

For sufficient legal grounds the county superintendent of schools may be removed from office by the circuit court after trial by jury on an accusation presented by the grand jury or verified by the oath of any person.<sup>12</sup> If the superintendent of schools is convicted of a felony the judgment of conviction must declare his office vacant.<sup>13</sup>

Any vacancy in the office of county superintendent of schools is filled in the manner provided for the election for a full term. The person elected to fill the vacancy must post bond and take oath as was required of his predecessor, and holds office for the unexpired term and until his successor is elected and qualified.<sup>14</sup>

The county superintendent of schools, with the approval of the township trustees, may appoint an assistant. He is employed for such number of days as is necessary, and his compensation is fixed by the township trustees.<sup>15</sup>

<sup>6</sup> Acts 1911, ch. 94, sec. 3. Acts 1921, ch. 54, sec. 3. Acts 1935; Burns, 1941 suppl., 28-708; Baldwin 1935 suppl., 5934.

<sup>7</sup> Acts 1899; Burns 28-707; Baldwin 5946. Acts 1907, 1929, 1933; Burns 28-4402; Baldwin 6725.

<sup>8</sup> Acts 1915, 1921, 1937, 1939; Burns, 1941 suppl., 28-4511; Baldwin, 1939 suppl., 6739.

<sup>9</sup> Acts 1901; Burns 28-716 to 28-718; Baldwin 5954 to 5956.

<sup>10</sup> Acts 1913; Burns 28-401; Baldwin 5906.

<sup>11</sup> See the essay entitled "County Board of Education."

<sup>12</sup> Const. 1851, art. 2, secs. 6, 7; art. 6, sec. 8. Acts 1899; Burns 28-703; Baldwin 5932. Acts 1897, 1899; Burns 49-621 to 49-634, 49-856; Baldwin 13154 to 13166, 13050, 13168. Acts 1875; Burns 49-837; Baldwin 13052. *McComas v. Krug*, 81 Ind. 327 (1879); *Hufford v. Conover*, 139 Ind. 151, 38 N. E. 328 (1894).

<sup>13</sup> Acts 1897, 1899; Burns 49-834; Baldwin 13050.

<sup>14</sup> Acts 1899, 1911, 1913; Burns 28-702; Baldwin 5931.

<sup>15</sup> Acts 1911, 1921; Burns 28-709; Baldwin 5937.

## FUNCTIONS AND RECORDS

The county superintendent of schools is an officer of the public school system of Indiana,<sup>16</sup> and constitutes the medium between the State Superintendent of Public Instruction and the "subordinate school officers and the schools."<sup>17</sup>

The county superintendent exercises general supervision of those schools in Fulton County which are not within incorporated cities and towns;<sup>18</sup> carries out the orders of the State Board of Education and the State Superintendent of Public Instruction; visits the schools in session, at least once each year, for the purpose of increasing their usefulness and raising their scholastic standards as uniformly as practicable;<sup>19</sup> obtains the aid of the county agricultural agent in giving practical education in agriculture and domestic science;<sup>20</sup> cooperates with the State Board of Education in carrying out the provisions of the law requiring the teaching of the nature of alcoholic drinks and narcotics and their effects on the human system;<sup>21</sup> provides for the examination of applicants for graduation from the common and high schools of the townships, districts, and towns, and furnishes the certificates of graduation; and attends commencements of the common and high schools of the townships and towns.<sup>22</sup>

The county superintendent keeps a complete record of licenses held by the school teachers, county attendance officer, and other regular school employees working in the county (other than those of town and city schools);<sup>23</sup> reports to the school corporations as to teachers' preparation, experience, and licenses before they are employed;<sup>24</sup> conducts teachers' meetings and institutes;<sup>25</sup> notifies teachers of their "duties and obligations" under the law concerning teachers' pensions; sees that these "duties and obligations" are stated in the

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<sup>16</sup> State ex rei. Osborn v. Eddington, 208 Ind. 160, 195 N. E. 92 (1935).

<sup>17</sup> Acts 1899; Burns 28-704; Baldwin 5938.

<sup>18</sup> Acts 1899; Burns 28-704, 23-705; Baldwin 5938, 5940. Acts 1873; Burns 28-1404; Baldwin 5873.

<sup>19</sup> Acts 1921; Burns 28-305; Baldwin 5939. Acts 1899; Burns 28-704; Baldwin 5938.

<sup>20</sup> Acts 1913, 1923, 1927, 1937; Burns, 1941 suppl., 28-4911; Baldwin, 1937 suppl., 6457.

<sup>21</sup> Acts 1933; Burns 28-3410; Baldwin 5021.

<sup>22</sup> Acts 1899; Burns 28-706; Baldwin 5942.

<sup>23</sup> This record shows the kind and grade of license, the success grade, the date of first employment, and monthly or annual salary. Acts 1923; Burns 28-4217; Baldwin 5928.

<sup>24</sup> Acts 1927, 1933; Burns 28-4309; Baldwin 6005.

<sup>25</sup> Acts 1865, ch. 1, secs. 159-161. Acts 1899; Burns 28-704, 28-706; Baldwin 5938, 5942. Acts 1907, 1929, 1933; Burns 28-4401, 28-4402; Baldwin 6728, 6725.

teachers' contracts; and reports to the Board of Trustees of the Indiana State Teachers' Retirement Fund information needed by that board for the administration of the retirement fund.<sup>26</sup>

The county superintendent of schools annually nominates a county attendance officer to be appointed by the county board of education; serves as such attendance officer if one is not appointed, in which event the county superintendent may designate one or more teachers to serve as assistant attendance officers; supervises the work of the county attendance officer; authorizes or prosecutes legal proceedings for the enforcement of the school attendance laws;<sup>27</sup> issues work permits and absence permits for children;<sup>28</sup> and arranges for examination of children by physicians and other experts as a basis for the establishment of special classes for children who are physically handicapped or mentally retarded, and those regarded as "problem children."<sup>29</sup>

The county superintendent authorizes the removal and relocation of township school buildings;<sup>30</sup> acts with the county assessor and auditor in determining the value of school buildings and equipment to be purchased by a township from a school town;<sup>31</sup> appoints depository merchants and dealers for the sale of school books;<sup>32</sup> and joins with each township trustee in making regulations concerning the free use of school books in the several school libraries.<sup>33</sup>

The county superintendent examines and verifies certificates, presented by township trustees, for aid from the State common school relief fund;<sup>34</sup> receives from the township trustees and the school trustees of cities and towns copies of their reports to the board of commissioners concerning "special

<sup>26</sup> These reports must show the teachers' pension account numbers and such other information as is required by the pension board. Acts 1915, 1921, 1937, 1939; Burns, 1941 suppl., 28-4511(g); Baldwin, 1939 suppl., 6739(g).

<sup>27</sup> Acts 1921, 1932 (Spec. Sess.); Burns 28-501, 28-502; Baldwin 6693, 6694.

<sup>28</sup> Acts 1921, 1929; Burns 23-505, 28-519, Baldwin 6698, 6712.

Mental unfitness. In re Morton, 79 Ind. App. 5, 137 N. E. 62 (1922).

<sup>29</sup> Acts 1927; Burns 28-3502; Baldwin 6077.

<sup>30</sup> Acts 1893; Burns 28-2701; Baldwin 6104.

<sup>31</sup> Acts 1919; Burns 28-1209; Baldwin 6247.

<sup>32</sup> Acts 1907, 1913; Burns 28-610; Baldwin 6681.

The county superintendent cannot "deal in school books in his official capacity."

Acts 1907; Burns 28-611; Baldwin 6682.

<sup>33</sup> Acts 1935; Burns, 1941 suppl., 28-628; Baldwin, 1935 suppl., 6677-5.

<sup>34</sup> Acts 1921, ch. 201, secs. 4, 5. Acts 1931, ch. 163, secs. 4, 5, 13. Acts 1933, ch. 167, sec.

12. Acts 1933; Burns 28-903, 28-904; Baldwin 6433, 6434.



school revenue" and the "school revenue for tuition";<sup>35</sup> reports to the county auditor the basis for the apportionment of school revenues;<sup>36</sup> receives semiannual reports from the county auditor showing the precise amount of "school revenue for tuition" in the county ready for apportionment and distribution;<sup>37</sup> sees that the interest on the common school fund is apportioned, and that proper warrants are issued in case of "loss of any school fund or revenue" or "a deficit of interest of any school fund";<sup>38</sup> and inspects the official dockets, records, and books of accounts of the clerks of courts, county auditor, board of commissioners, justices of the peace, prosecuting attorney, mayors of cities, and township and school trustees to ascertain if any of said officers have neglected to collect and pay to the school funds any revenues belonging to such funds, and he institutes judicial proceedings when such neglect is found.<sup>39</sup>

The county superintendent will appoint three members of the county library board when such board is established in the county. He appoints two members of any city library board which receives aid from the county.<sup>40</sup> From 1919 until 1935 he annually awarded two scholarships to Indiana University.<sup>41</sup>

The county superintendent hears and decides appeals from township trustees concerning "the legality of school meetings," the establishment of schools, the location, building, repair, or removal of schoolhouses, the "transfer of persons for school purposes," the transfer of pupils from one school corporation to another, the transportation of such transferred pupils to and from school, the resignation and dismissal of teachers,

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<sup>35</sup> These reports are made annually unless the board of commissioners requires that they be made more often. Acts 1865, 1873, 1883; Burns 28-2412; Baldwin 6498.

<sup>36</sup> Acts 1865; Burns 28-715; Baldwin 5949.

<sup>37</sup> Acts 1865, 1873, 1897; Burns 28-1009; Baldwin 6486.

<sup>38</sup> Acts 1873, 1875; Burns 28-711; Baldwin 5951. Acts 1865; Burns 28-715; Baldwin 5949.

<sup>39</sup> Acts 1873; Burns 28-712; Baldwin 5950. *Moore v. State ex rel. Denny*, 55 Ind. 360 (1876); *Nichols v. State ex rel. Clerk*, 65 Ind. 512 (1879); *Carr v. State ex rel. Attorney General*, 81 Ind. 342 (1882).

The county superintendent cannot enjoin school trustees from unlawfully paying out school funds. *McGreggor v. State ex rel. Ballard*, 31 Ind. App. 483, 68 N. E. 315 (1903).

<sup>40</sup> Acts 1917, 1921, 1927, 1939; Burns, 1941 suppl., 41-510, 41-514; Baldwin, 1939 suppl., 10321, 10325.

<sup>41</sup> Acts 1919, ch. 185, sec. 1. Acts 1935, ch. 45, sec. 1.

and other school matters.<sup>42</sup> He casts the deciding vote in case of a tie vote concerning the management and control of any high school operated jointly by two or more school corporations in the county.<sup>43</sup> In many cases his acts and decisions are reviewable on appeal to the State Superintendent of Public Instruction.<sup>44</sup>

The county superintendent receives annual statistical reports from township trustees and the school trustees of cities and towns;<sup>45</sup> cooperates in the examination of schools by inspectors of the State Board of Education; makes reports as required by such inspectors;<sup>46</sup> and makes annual reports to the State Superintendent of Public Instruction concerning the condition of the schools and schoolhouses, the progress of education, the average daily attendance of school children (substituted for the enumeration of children of school age in 1932) as the basis for distributing school revenues, and such additional statistics and information concerning public and private schools as is required by the State Superintendent.<sup>47</sup>

#### REPORTS

##### 316. ANNUAL SCHOOL REPORTS, 1933-. 1 f. b.

Copies of annual financial and statistical reports by county superintendent of schools to State Superintendent of Public Instruction, showing date of report; name of township; amount of receipts and disbursements; nature of expenditures, and total operating costs; number of pupils enrolled in schools and total daily attendance; number of employees and amount of salaries; assessed valuation of school property; and tax rate. Arr. chron. by date of report. No index. Typed. 24 x 12 x 14. Supt. off.

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<sup>42</sup> Acts 1899; Burns 28-704; Baldwin 5938. Acts 1865; Burns 28-2405; Baldwin 5952. Acts 1901; Burns 28-3705; Baldwin 6286. Acts 1935; Burns, 1941 suppl., 28-3718; Baldwin, 1935 suppl., 6292-2. Acts 1917; Burns 28-3801; Baldwin 6271. State ex rel. Stewart v. Miller, 193 Ind. 492, 141 N. E. 60 (1923); Brumfield v. State ex rel. Wallace, 206 Ind. 647, 190 N. E. 863 (1934). Op. Atty. Gen. 1938, p. 302.

<sup>43</sup> Acts 1911, 1915; Burns 28-2652; Baldwin 6171.

<sup>44</sup> Acts 1899; Burns 28-704; Baldwin 5938. Acts 1865; Burns 8-2405, 28-2407; Baldwin 5952, 5953.

<sup>45</sup> Acts 1865, 1873, 1883; Burns 28-2414; Baldwin 5974.

<sup>46</sup> Acts 1921; Burns 28-305; Baldwin 5939.

<sup>47</sup> Acts 1865, 1873, 1895; Burns 28-713 to 28-715; Baldwin 5947 to 5949. Acts 1865, 1893, 1932 (Spec. Sess.), 1933; Burns 28-1013; Baldwin 6490.

## 317. TRUSTEES' REPORTS, 1933-. 1 f. d.

Annual financial reports by township trustees to county superintendent of schools, showing date of report; names of township, trustee, and funds; dates, amounts, and nature of receipt and disbursement; total amounts of receipts and disbursements; and amount of balance at opening and closing of period. Arr. chron. by date of report. No index. Hdw. 24 x 12 x 14. Supt. off.

## 318. RECORD OF ENUMERATION OF SCHOOL CHILDREN IN FULTON COUNTY, 1928-32. 1 f. d.

Reports of enumeration of school children as basis for apportionment of school funds, showing date of enumeration; names of child, parent or guardian, trustee, and township; number of males and females; and total enumeration. Arr. alph. by name of child. No index. Hdw. 36 x 18 x 8. Supt. off.

## 319. PERIODIC ATTENDANCE REPORT, 1918-. 2. f. d.

Periodic reports by teachers to county superintendent of schools pertaining to enrollment, withdrawals, and attendance of pupils, showing date of report and period covered; dates of enrollment and withdrawals; enrollment at end of previous period; names, grades, and total number of pupils received and withdrawn during period; names of parents or guardian of pupils received or withdrawn during period; attendance record of pupils by grades; number of cases of tardiness; and names of school and teachers. Arr. chron. by date of report. Hdw. 12 x 20 x 4. Supt. off.

## 320. TEACHERS' REPORTS TO SUPERINTENDENT, 1933-. 20 bdl.

Reports by teachers to county superintendent of schools of grades and health of pupils, showing date of report; name, age, grade, and health status of pupil; and name of teacher. Arr. chron. by date of report. No index. Hdw. 16 x 6 x 10. Supt. off.

## 321. HIGH SCHOOL REPORT, 1933-. 1 f. d.

Annual reports by high school principals to county superintendent of schools on curriculum of high school students, showing date of report; names of principal and teaching staff; data on subjects scheduled; and number and classification of pupils enrolled. Arr. chron. by date of report. No index. Hdw. 24 x 12 x 14. Supt. off.

## 322. INSPECTION, 1933-. 1 f. d.

Annual reports of inspection of schools, showing dates of report and inspection; names of school and inspector; schedule of studies and programs; statistics on teaching staff, supervi-

sion, and administration; condition of building, grounds, furnishings, and equipment; and inspector's recommendations. Arr. chron. by date of report. No index. Hdw. 24 x 12 x 14. Supt. office.

### TEACHERS

#### 323. TEACHERS' QUALIFICATION CARDS, 1933-. 2 f. b.

Card record of teachers' qualifications, showing information as in entry 324. Arr. alph. by name of teacher. No index. Hdw. 24 x 5 x 6. Supt. off.

#### 324. RECORD OF TEACHERS' TRAINING AND LICENSE, 1933-. 2 f. d.

Card record of teachers' training showing name, address, and date and place of birth of teacher; name and address of college attended; date of graduation and nature of degree; and data on teaching experience. Arr. alph. by name of teacher. No index. Typed. 24 x 12 x 14. Supt. off.

#### 325. TEACHERS' APPROVAL CARDS, 1933-. 1 f. b.

Card record of licensed teachers, showing name, age, address, training, teaching experience of teacher, and number and kind of license. Arr. alph. by name of teacher. No index. Typed. 24 x 5 x 6. Supt. off.

#### 326. TEACHERS' LICENSE APPLICATION BLANKS, 1933- 1 f. d.

Teachers' applications for permits to teach additional subjects, showing date of application; name, age, experience, and qualifications of teacher; kind of license; and additional subjects requested. Arr. alph. by name of teacher. No index. Typed. 24 x 12 x 14. Supt. off.

### PUPILS

#### 327. ATTENDANCE RECORD OF SCHOOL CHILDREN, 1918-. 4 f. d.

Card record of school attendance of pupils, showing dates of entering school and withdrawal; name of school attended; name, date and place of birth, sex, and school grade of pupil; names, addresses, and occupations of parents or guardian; and reason for withdrawal. Arr. alph. by name of pupil. No index. Hdw. 12 x 20 x 4. Supt. off.

#### 328. RECORD OF GRADUATES OF COMMON AND HIGH SCHOOL, 1890-. 4 vols.

Record of common and high school graduates, showing dates of enrollment and graduation; name, address, age, sex, and place of birth of graduate; names of parents or guardian, township,



trustee, and county school superintendent; subjects, grades, and general average grades; character; achievement; intelligence tests; attendance record; and extra courses taken. Arr. chron. by date of graduation. No index. Hdw. 180 pp. 16 x 10 x 2. Supt. off.

329. HIGH SCHOOL PERMITS, 1930-. 1 f. b.

Record of township trustees' permits for transfer of students from one township or school corporation to another, showing date of permit; name, address, age, and sex of student; and reason for transfer. Arr. chron. by date of permit. No index. Hdw. 24 x 12 x 14. Supt. off.

330. WORK PERMIT, 1935-. 1 f. b.

Copies of work permits issued by county superintendent of schools to children of school age, showing date of permit; date and place of birth, name, and physical description of child; names of employer and parents or guardian; proofs of physical fitness, schooling, age, and prospective employment. Arr. alph. by name of child. No index. Hdw. 12 x 20 x 24. Supt. off.

#### XXXIV. COUNTY ATTENDANCE OFFICER

##### LEGAL STATUS

The office of county attendance officer (known as "truant officer" before 1913) has existed in Fulton County ever since 1897 under the provisions of acts of 1897, 1899, 1901, 1913, 1921, and 1932. The attendance officer is nominated by the county superintendent of schools, is appointed by the county board of education for a 1-year term beginning on August 1, and holds office until his successor is appointed and qualified. As many attendance officers as are needed may be appointed. When no attendance officer is appointed, the county superintendent of schools is ex officio attendance officer with no additional compensation and may designate one or more teachers of the township schools to act as assistant attendance officers without additional compensation.<sup>1</sup> The county superintendent of schools is now serving as ex officio attendance officer in Fulton County.

An attendance officer must have completed the course of instruction required in the elementary public schools and possess such other qualifications as may be prescribed by the

<sup>1</sup> Acts 1897, ch. 165, sec. 2. Acts 1899, ch. 244, sec. 2. Acts 1901, ch. 209, sec. 2.

Acts 1913, ch. 213, sec. 4. Acts 1921, 1932 (Spec. Sess.); Burns 28-501, 28-502; Baldwin 6693, 6694.

State Board of Attendance;<sup>2</sup> must reside in the county after his appointment; must not hold any other lucrative office;<sup>3</sup> and must take an oath to support the State and Federal Constitutions and faithfully perform the duties of his office.<sup>4</sup>

He receives compensation fixed by the county board of education at not less than \$3 nor more than \$5 per day for each day of actual service. He is reimbursed for the actual expenses necessarily incurred by him in the proper performance of his duties.<sup>5</sup>

The State Board of Attendance has power to remove any county attendance officer for incompetence or neglect of duty.<sup>6</sup> For sufficient legal causes set forth in an accusation presented by the grand jury or verified by the oath of any person, he may be removed by the circuit court after trial by jury.<sup>7</sup> If he be convicted of a felony, the judgment of conviction must declare his office vacant.<sup>8</sup>

From 1897 until 1932 the appointment of a county attendance officer was mandatory. From 1897 until 1901 he was appointed by the county superintendent of schools, the secretary of the State Board of Charities, and a member of the State Board of Education. From 1913 until 1921 he acted as probation officer.<sup>9</sup>

#### FUNCTIONS AND RECORDS

All township schools in the county are within the jurisdiction of the county attendance officer, whether appointive or ex officio. An appointive attendance officer also has jurisdiction over each town school in the county that has no separate appointive attendance officer.<sup>10</sup>

The county school attendance officer works under the general supervision of the State Attendance Officer<sup>11</sup> and

<sup>2</sup> Acts 1921, 1932 (Spec. Sess.); Burns 28-503; Baldwin 6695.

<sup>3</sup> Const. 1851, art. 2, sec. 9; art. 6, sec. 6.

<sup>4</sup> Const. 1851, art. 15, sec. 4. Acts 1905; Burns 10-3708; Baldwin 2660. 1 Rev. Stat. 1852; Burns 49-101, 49-102, 49-104; Baldwin 13054, 13055, 13057.

<sup>5</sup> Acts 1921, 1932 (Spec. Sess.); Burns 28-502; Baldwin 6694. Op. Atty. Gen. 1939, p. 132.

<sup>6</sup> *Ibid.*

<sup>7</sup> Acts 1897; Burns 49-821 to 49-833, 49-836; Baldwin 13154 to 13166, 13168. Acts 1875; Burns 49-837; Baldwin 13052.

<sup>8</sup> Acts 1899; Burns 49-834; Baldwin 13050.

<sup>9</sup> See footnote 1 herein.

<sup>10</sup> Acts 1921, 1932 (Spec. Sess.); Burns 28-501; Baldwin 6693.

<sup>11</sup> Acts 1921; Burns 28-504; Baldwin 6697.

under the rules, direction, and control of the county superintendent of schools; maintains an office at a place designated by the superintendent; is on duty during school hours and such other times as required by the superintendent;<sup>12</sup> and enforces the provisions of the compulsory attendance laws.<sup>13</sup>

He inspects the attendance records kept by teachers; makes inquiries of teachers concerning attendance of school children;<sup>14</sup> visits the homes of children who are absent from school or who are reported to be in need of books, clothing, or parental care; visits places where minors are employed, and makes inquiries and inspections thereat for the purpose of determining whether there are violations of the compulsory attendance laws;<sup>15</sup> serves written notices on parents, guardians, or custodians whose children are illegally out of school;<sup>16</sup> and serves original and other processes in cases arising under the provisions of the compulsory attendance laws.<sup>17</sup>

He brings suit for enforcement of the provisions of the compulsory attendance laws, with the approval of the county or town superintendent, the State Attendance Officer, or the State Board of Attendance.<sup>18</sup> The superintendent and the attendance officer, acting together, may report to the circuit court any child who habitually absents himself from school and request that such child be declared a confirmed truant and be sentenced to the Indiana Boys' School, the Indiana Girls' School, some other custodial institution, to the care of a probation officer or the attendance officer acting as special probation officer.<sup>19</sup>

When a teacher reports to him that any school child is unclean or infested with vermin, the attendance officer gives notice to the child's parent or guardian requiring him to correct such condition. He must arrest and prosecute the parent or guardian who does not comply with the notice; and

<sup>12</sup> Acts 1921, 1932 (Spec. Sess.); Burns 28-502; Baldwin 6694.

<sup>13</sup> *Ibid.*

<sup>14</sup> Acts 1921; Burns 28-511; Baldwin 6704.

<sup>15</sup> Act 1897, ch. 165, sec. 2. Acts 1899, ch. 244, sec. 2. Acts 1901, ch. 209, sec. 2. Acts 1913, ch. 213, sec. 3. Acts 1921, 1932 (Spec. Sess.); Burns 28-502; Baldwin 6694.

<sup>16</sup> Acts 1899, ch. 244, sec. 2. Acts 1901, ch. 209, sec. 2. Acts 1913, ch. 213, sec. 4. Acts 1921, 1932 (Spec. Sess.); Burns 28-502, 28-508; Baldwin 6694, 6701.

<sup>17</sup> Acts 1921, 1932 (Spec. Sess.); Burns 28-502; Baldwin 6594.

<sup>18</sup> *Ibid.* Acts 1897, ch. 165, sec. 2. Acts 1899, ch. 244, sec. 2. Acts 1901, ch. 209, sec. 2. Acts 1913, ch. 213, sec. 4.

<sup>19</sup> Acts 1921; Burns 28-509, 28-216; Baldwin 6702, 6709.

must have such child bathed and cleansed when so ordered by the superintendent.<sup>20</sup>

On the request of the overseer of the poor of any township, and with the approval of the board of county commissioners, the attendance officer must serve as an investigator of the poor in any township in the county with all the duties and powers of an investigator.<sup>21</sup>

He must keep such records and make such reports as are required by the State Board of Attendance and the superintendent.<sup>22</sup>

It is a criminal offense for any person to hinder or delay the attendance officer in the performance of his official duties.<sup>23</sup>

No records of the county attendance officer were found in this county.

### XXXV. COUNTY HEALTH OFFICER

#### LEGAL STATUS

The office of county health officer has existed in Fulton County ever since 1938 under the requirements of an act of 1935, which became effective on January 1, 1938. The county health officer is appointed for a 4-year term by the board of commissioners with the approval of the Indiana State Board of Health.<sup>1</sup> He holds office for such term and until his successor is appointed and qualified.<sup>2</sup> A new term of office begins on January 1 each 4th year after 1938.<sup>3</sup> The board of commissioners determines whether he shall be a "full-time" officer or a "part-time" officer. He is now a part-time officer.<sup>4</sup>

<sup>20</sup> Acts 1911; Burns 28-2902; Baldwin 6135.

<sup>21</sup> Acts 1933; Burns 52-139; Baldwin 6695.

<sup>22</sup> Acts 1921, 1932 (Spec. Sess.); Burns 28-502; Baldwin 6694.

<sup>23</sup> Acts 1921; Burns 28-517; Baldwin 6710.

<sup>1</sup> Const. 1816, art. 11, sec. 15. Const. 1851, art. 15, secs. 1, 2. Acts 1935; Burns, 1941 suppl., 33-118, 35-122, 35-124; Baldwin, 1935 suppl., 8404-1, 8404-5, 8404-7.

<sup>2</sup> Const. 1851, art. 15, sec. 3. Acts 1935; Burns, 1941 suppl., 35-118; Baldwin, 1935 suppl., 8404-1.

<sup>3</sup> Acts 1935; Burns, 1941 suppl., 35-118; Baldwin, 1935 suppl., 8404-1.

<sup>4</sup> Acts 1935; Burns, 1941 suppl., 35-122, 35-128; Baldwin, 1935 suppl., 8404-5, 8404-11.

Information obtained from Dr. John W. Ferree, director of the State Board of Health, on January 17, 1941, by William E. Chambers.



Two or more counties may be formed into a health district in charge of a full-time official known as a district health officer. Fulton County is not in such a health district.<sup>5</sup>

A health officer must be a regularly licensed physician, legally qualified to practice medicine in Indiana and suitably trained in sanitary science;<sup>6</sup> must have resided in the county for 1 year next preceding his appointment;<sup>7</sup> must reside within the county after his appointment;<sup>8</sup> must not hold any other lucrative office when serving as a full-time health officer;<sup>9</sup> and must take an oath of office to support the State and Federal Constitutions and faithfully discharge the duties of his office.<sup>10</sup>

A part-time county health officer receives an annual salary in an amount equal to 3 cents for each person residing within the area included in his territorial jurisdiction, provided that his salary must be between \$200 and \$1,800 per year. A part-time county health officer may also serve as a part-time city health officer but his compensation from the two offices cannot exceed \$1,800 per year. A full-time county health officer receives an annual salary in an amount fixed by the board of commissioners.<sup>11</sup> With the approval of the board of commissioners and the State Board of Health, a health officer is permitted to receive gifts and other financial assistance from private individuals, private corporations, the State, and the United States.<sup>12</sup> A retiring health officer cannot receive his last month's pay until all books are surrendered and all reports are properly made.<sup>13</sup>

The health officer may appoint necessary deputies and assistants to serve during certain emergencies.<sup>14</sup> The necessary operating expenses of this office must be provided by

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<sup>5</sup> Acts 1935; Burns, 1941 suppl., 35-125; Baldwin, 1935 suppl., 8404-8. Information obtained from Dr. John W. Ferree, director of the State Board of Health, on January 17, 1941, by William E. Chambers.

<sup>6</sup> Acts 1909, ch. 144, sec. 6. Acts 1935; Burns, 1941 suppl., 35-118; Baldwin, 1935 suppl., 8404-1.

<sup>7</sup> Const. 1816, art. 11, sec. 14. Const. 1851, art. 6, sec. 4.

<sup>8</sup> Const. 1816, art. 11, sec. 6. Const. 1851, art. 6, sec. 6.

<sup>9</sup> Const. 1816, art. 11, sec. 13. Const. 1851, art. 2, sec. 9.

<sup>10</sup> Const. 1851, art. 15, sec. 4.

<sup>11</sup> Acts 1881, ch. 19, sec. 8. Acts 1891, ch. 15, sec. 8. Acts 1935; Burns, 1941 suppl., 35-113, 35-124; Baldwin, 1935 suppl., 8404-1, 8404-7. Information obtained from Dr. John W. Ferree, director of the State Board of Health, on November 25, 1940, by W. Davis Hamilton.

<sup>12</sup> Acts 1935; Burns, 1941 suppl., 35-127; Baldwin, 1935 suppl., 8404-10.

<sup>13</sup> State Board of Health, *Book of Instructions to Health Authorities*, Rule 7(2), p. 12.

<sup>14</sup> *Ibid.*, Rule 1. p. 9.

the board of commissioners. He is entitled to reimbursement for all traveling expenses necessarily incurred by him in the discharge of his official duties.<sup>15</sup>

The health officer may be removed from office by the board of commissioners or the State Board of Health.<sup>16</sup> If he is convicted of a felony the judgment of conviction must declare his office vacant.<sup>17</sup>

Any vacancy in his office is filled through appointment by the board of commissioners with approval of the State Board of Health. The appointee holds office for the unexpired term of his predecessor and until the appointee's successor is appointed and qualified.<sup>18</sup>

From 1881 to 1909 the board of commissioners constituted, ex officio, the county board of health and annually appointed a secretary, who was a physician and served as county health officer. The law provided that the secretary must render medical and surgical services to the inmates of the county jail and other county institutions.<sup>19</sup> An act of 1891 enlarged the duties of the board.<sup>20</sup> In 1909 the county board of health was abolished and the office of county health commissioner was created. He was appointed by the board of commissioners for a 4-year term. The law of 1935, which is mentioned in the first paragraph of this essay, superseded the act of 1909.<sup>21</sup>

#### FUNCTIONS AND RECORDS

The territorial jurisdiction of a county health officer extends throughout the county, except that a full-time county health officer has no jurisdiction of the area within a city having a full-time health officer and a part-time county health officer has no jurisdiction in a city which has a full-time or a part-time health officer. The jurisdiction of a

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<sup>15</sup> Acts 1935; Burns, 1941 suppl., 35-118, 35-122; Baldwin, 1935 suppl., 8404-1, 8404-5.  
Acts 1903; Burns 35-406; Baldwin 8536. Op. Atty. Gen. 1934, p. 282, 1938, p. 11.

<sup>16</sup> Acts 1909, ch. 144, sec. 6. Acts 1935; Burns, 1941 suppl., 35-118; Baldwin, 1935 suppl., 8404-1.

<sup>17</sup> Const. 1851, art. 6, sec. 8. Acts 1899; Burns 49-834; Baldwin 13050.

<sup>18</sup> Const. 1851, art. 6, sec. 9; art. 15, sec. 3. Acts 1899, ch. 16, sec. 2. Acts 1935; Burns, 1941 suppl., 35-118; Baldwin, 1935 suppl., 8404-1.

<sup>19</sup> Acts 1881, ch. 19, secs. 8, 9, 11. Acts 1889, ch. 122, sec. 1. Acts 1891, ch. 15, secs. 8, 9, 11. Acts 1899, ch. 16, secs. 2, 4, 5, 8.

<sup>20</sup> Acts 1891, ch. 15, sec. 8. Acts 1899, ch. 16, sec. 8.

<sup>21</sup> Acts 1909, ch. 144; secs. 4, 6. Acts 1935; Burns, 1941 suppl., 35-118; Baldwin, 1935 suppl., 8404-1.

district health officer (hereinafter treated as a county health officer) extends throughout all counties in his district, except in cities having a full-time health officer.<sup>22</sup>

The health officer protects and supervises the general health and sanitation within his territorial jurisdiction;<sup>23</sup> enforces the public health statutes of the State and the rules of the State Board of Health, subject to appeal by any aggrieved person to the State Board of Health;<sup>24</sup> condemns buildings which are unfit for human habitation;<sup>25</sup> orders improvements in or about buildings when necessary to health;<sup>26</sup> must acquaint himself thoroughly with the work of the State laboratory of bacteriology and pathology and with the prescribed methods of preparing the various kinds of specimens for examination at that laboratory;<sup>27</sup> keeps available to physicians a complete supply of approved mailing outfits for specimens to be sent to the State laboratory of bacteriology for examination;<sup>28</sup> aids in procuring, free of charge for the use of the poor, insulin, antirabic and smallpox virus, typhoid bacterins, and antitoxins and antiseptic serums for diphtheria, scarlet fever, and tetanus (lockjaw), and makes reports thereon to the State Board of Health;<sup>29</sup> gives information and assistance for obtaining free medical and surgical services, nursing, and hospitalization, when available;<sup>30</sup> and attends conventions and conferences of health officials when called by the State Board of Health.<sup>31</sup>

<sup>22</sup> Acts 1935; Burns, 1941 suppl., 35-122, 35-124, 35-128; Baldwin, 1935 suppl., 8404-5, 8404-7, 8404-11. State Board of Health, *op. cit.*, p. 3. Op. Atty. Gen. 1938, p. 93.

<sup>23</sup> Acts 1899, ch. 16, sec. 8. Acts 1891, 1909; Burns 35-111; Baldwin 8405. Acts 1935; Burns, 1941 suppl., 35-122, 35-124; Baldwin, 1935 suppl., 8404-5, 8404-7.

<sup>24</sup> Acts 1881, ch. 19, sec. 9. Acts 1891, 1909; Burns 35-111; Baldwin 8405. Acts 1935; Burns, 1941 suppl., 35-118; Baldwin, 1935 suppl., 8404-1.

The rules established by the State Board of Health have the force of statutes. *Blue v. Beach*, 155 Ind. 121, 130, 56 N. E. 89 (1900); *Isenhour v. State*, 157 Ind. 517, 521, 62 N. E. 40 (1901).

<sup>25</sup> Acts 1917; Burns 35-1801; Baldwin 8563.

<sup>26</sup> Acts 1917; Burns 35-1802; Baldwin 8564.

<sup>27</sup> State Board of Health, *op. cit.*, Rule 1, p. 32.

<sup>28</sup> *Ibid.*, Rule 2, p. 32.

<sup>29</sup> Acts 1907, 1919, 1929, 1935; Burns, 1941 suppl., 35-701, 35-702, 35-710; Baldwin, 1935 suppl., 13392, 13393, 13395-1.

<sup>30</sup> Acts 1907, 1919, 1929, 1935; Burns, 1941 suppl., 35-701, 35-703; Baldwin, 1935 suppl., 13392, 13394. Information obtained from Dr. John W. Ferree, director of the State Board of Health, on November 25, 1940, by W. Davis Hamilton.

<sup>31</sup> Acts 1903; Burns 35-406; Baldwin 8536.

He receives reports and information concerning births,<sup>32</sup> marriages,<sup>33</sup> certain diseases,<sup>34</sup> and deaths;<sup>35</sup> keeps permanent records thereof;<sup>36</sup> makes reports to the State Board of Health concerning such births,<sup>37</sup> marriages,<sup>38</sup> diseases,<sup>39</sup> and deaths;<sup>40</sup> issues permits for transportation and burial of dead human bodies and sends reports thereof to the State Board of Health;<sup>41</sup> has supervision over funerals in case of death from certain diseases;<sup>42</sup> notifies the county coroner when he finds evidence that a death was caused by violence or criminal practice or that a dead human body was buried or otherwise disposed of without a permit;<sup>43</sup> and prepares and delivers to the clerk of the circuit court on his request a list of names and addresses of deceased voters of the county.<sup>44</sup>

<sup>32</sup> Acts 1881, ch. 19, secs. 7, 9-13. Acts 1891, ch. 15, secs. 9, 10, 12. Acts 1899, ch. 16, sec.

4. Acts 1891, 1909; Burns 35-107, 35-111; Baldwin 8392, 8405. Acts 1907, 1913; Burns 35-115, 35-116; Baldwin 8398, 8399. Acts 1911; Burns 35-901; Baldwin 8558. Acts 1939; Burns, 1941 suppl., 35-805; Baldwin, 1939 suppl., 8557-2. State Board of Health, *op. cit.*, pp. 3, 7; Rules 2, 4, pp. 9-11.

<sup>33</sup> Acts 1881, ch. 19, secs. 7, 9-13. Acts 1891, ch. 15, secs. 9, 12. Acts 1899, ch. 16, sec. 3. Acts 1891, 1909; Burns 35-107, 35-111; Baldwin 8392, 8405. Acts 1907, 1913; Burns 35-115, 35-116; Baldwin 8398, 8399. State Board of Health, *op. cit.*, p. 3; Rules 1 (2), 2, 5, pp. 9, 11.

<sup>34</sup> Acts 1881, ch. 19, sec. 9. Acts 1891, ch. 15, sec. 9. Acts 1899, ch. 16, secs. 3, 4. Acts 1891, 1909; Burns 35-107, 35-111; Baldwin 8392, 8405. Acts 1907, 1913; Burns 35-115, 35-116; Baldwin 8398, 8399. Acts 1903; Burns 35-401 to 35-403; Baldwin 8531 to 8533. Acts 1917; Burns 35-601 to 35-603; Baldwin 8402, 8552, 8553. Acts 1939; Burns, 1941 suppl., 35-805; Baldwin, 1939 suppl., 8557-2. Acts 1911; Burns 35-903, 35-904; Baldwin 8560, 8561. Acts 1935; Burns, 1941 suppl., 35-2207; Baldwin, 1935 suppl., 8431-7. State Board of Health, *op. cit.*, Rules 1, 6, 10, 16, 24, 40, 53, 54, FD4(12), FD25(9), FD43(7-d), pp. 9, 11, 13, 15, 25, 27, 30, 49, 63, 76.

<sup>35</sup> Acts 1881, ch. 19, secs. 7, 9-13. Acts 1891, ch. 15, secs. 9-12. Acts 1899, ch. 16, secs. 3, 4. Acts 1891, 1909; Burns 35-107, 35-111; Baldwin 8392, 8405. Acts 1907, 1913; Burns 35-115, 35-116; Baldwin 8398, 8399. State Board of Health, *op. cit.*, pp. 3, 4; Rules 2, 3, 4 (Par. 2), pp. 9, 10.

<sup>36</sup> See footnotes 32-35 herein.

<sup>37</sup> See footnote 32 herein.

<sup>38</sup> See footnote 33 herein.

<sup>39</sup> See footnote 34 herein.

<sup>40</sup> See footnote 35 herein.

<sup>41</sup> Acts 1907, 1913; Burns 35-115; Baldwin 8398. State Board of Health, *op. cit.*, Rule 44, p. 28.

<sup>42</sup> Acts 1903, 1915; Burns 35-409; Baldwin 8539.

<sup>43</sup> Acts 1907, 1913; Burns 35-115; Baldwin 8398.

<sup>44</sup> Acts 1925, ch. 138, sec. 1. (repealed by Acts 1927, ch. 195, sec. 1). Acts 1933, 1941; Burns, 1941 suppl., 29-321; Baldwin, 1941 suppl., 7319.



He inspects places used for the sale of food to the public, or for the manufacture, storage, distribution, or transportation of food for such sale; reports to the State Board of Health any conditions at such places which may transmit, generate, or promote disease;<sup>45</sup> orders the abatement of public nuisances, and notifies the prosecuting attorney if such order be disobeyed;<sup>46</sup> makes medical examinations of persons required by law to have health certificates in order to engage in certain occupations involving the handling of food and food materials, and issues health certificates to such persons when free of communicable disease; designates physicians to make such medical examinations and issue such health certificates;<sup>47</sup> directs the cleaning and disinfecting of milk containers before their removal from places at which certain diseases existed;<sup>48</sup> inspects the public water supply; ascertains and inspects the sources of water used in bakeries, restaurants, hotels, tourist camps, and similar places in the county; sends samples of water to the State laboratory for inspection, in order to detect pollution; issues certificates showing the quality of water in certain private wells; orders the disuse of water from any polluted water supply; and recommends methods of improving the quality of any public or private water supply.<sup>49</sup>

The health officer investigates the presence, source, and cause of diseases;<sup>50</sup> establishes, enforces, modifies, and terminates quarantines;<sup>51</sup> closes schools, churches, and swim-

<sup>45</sup> Acts 1891, 1909; Burns 35-111, 35-1009; Baldwin 8405, 8512. Acts 1919; Burns 35-1108; Baldwin 8521. Acts 1907, 1911; Burns 35-1203; Baldwin 8450. Acts 1911; Burns 35-1507; Baldwin 8502.

<sup>46</sup> Acts 1891, 1909; Burns 35-111; Baldwin 8405. State Board of Health, *op. cit.*, pp. 5, 6, 91.

<sup>47</sup> Bakery. Acts 1919; Burns 35-1103; Baldwin 8516.

Milk. State Board of Health, *op. cit.*, Par. 31 (b), p. 53.

Cheese. *Ibid.*, Par. 7(b), 9, 76.

Ice cream. *Ibid.*, Par. 8(b), p. 63.

<sup>48</sup> *Ibid.*, Rules 26, FD4 (13), pp. 25, 26, 49.

<sup>49</sup> Acts 1909; Burns 35-201; Baldwin 8410. Acts 1919; Burns 35-1105; Baldwin 8518. State Board of Health, *op. cit.*, Rules SE1-SE10, SE18, pp. 77-83, 89-91.

<sup>50</sup> Acts 1891, 1909; Burns 35-111; Baldwin 8405. Acts 1903; Burns 35-403; Baldwin 8538. State Board of Health, *op. cit.*, Rule 16, p. 15.

Diseases of school children. *Ibid.*, Rules 24, 40, pp. 25, 27.

<sup>51</sup> Acts 1891, 1909; Burns 35-111; Baldwin 8405. Acts 1903, 1915; Burns 35-403, 35-409; Baldwin 8533, 8538, 8539. State Board of Health, *op. cit.*, Rules 10-22, 27, pp. 13-26.

Minimum period. State Board of Health, *op. cit.*, Rule 22, p. 20.

Attending school. Acts 1903; Burns 35-405; Baldwin 8535. State Board of Health, *op. cit.*, Rules 10, 24, pp. 13, 25.

Renting to another tenant. Acts 1917; Burns 35-605; Baldwin 8556.

ming pools, and forbids public gatherings, in order to prevent the spread of epidemics;<sup>52</sup> authorizes vaccination in certain cases as an alternative of quarantine or exclusion from public places;<sup>53</sup> causes public service vehicles, public buildings, and dwelling places, and articles contained therein, to be disinfected after certain diseases have existed there;<sup>54</sup> causes the removal of diseased persons and their baggage from public service vehicles, hotels, rooming houses, apartments, and similar places, when necessary to prevent the spread of certain diseases;<sup>55</sup> issues permits authorizing common carriers to bring into the State persons having certain diseases;<sup>56</sup> issues permits authorizing persons having a venereal disease to move from one health jurisdiction to another;<sup>57</sup> must take all reasonable and necessary precautions against spreading diseases to which he has been exposed;<sup>58</sup> approves claims which are to be submitted to the board of commissioners in connection with the destruction of personal property to prevent the spread of disease;<sup>59</sup> and dismisses schools at which there are not 225 cubic feet of air space for each pupil.<sup>60</sup>

He orders the destruction of domestic animals which have been exposed to certain diseases contrary to quarantine regulations;<sup>61</sup> sends, or assists in sending, heads of animals to the State laboratory for scientific examination to determine whether the animals were rabid;<sup>62</sup> formerly referred indigent persons bitten by a dog, known or supposed to have hydrophobia, to the State Board of Health for the Pasteur treatment;<sup>63</sup> formerly ordered hydrophobia-infected animals quarantined or

<sup>52</sup> Acts 1891, 1909; Burns 35-111; Baldwin 8405. State Board of Health, *op. cit.*, Rule SE17(9), p. 86.

<sup>53</sup> State Board of Health, *op. cit.*, Rule 12, p. 14. Blue v. Beach, 155 Ind. 121, 56 N. E. 89 (1900); State ex rel. Horne v. Beil, 157 Ind. 25, 60 N. E. 672 (1901).

<sup>54</sup> Acts 1903; Burns 35-404, 35-410; Baldwin 8534, 8540. Acts 1917; Burns 35-603 to 35-605; Baldwin 8553, 8554, 8556. State Board of Health, *op. cit.*, Rules 21, 25, 27, pp. 19, 25, 26.

<sup>55</sup> Acts 1903; Burns 35-407, 35-408; Baldwin 8537, 8538. State Board of Health, *op. cit.*, Rule 21, p. 19.

<sup>56</sup> State Board of Health, *op. cit.*, Rule 20, p. 19.

<sup>57</sup> *Ibid.*, Rule 18, p. 16.

<sup>58</sup> *Ibid.*, Rule 13, p. 14.

<sup>59</sup> Acts 1903; Burns 35-407; Baldwin 8537.

<sup>60</sup> State Board of Health, *op. cit.*, Rule 28, p. 26.

<sup>61</sup> *Ibid.*, Rule 26(2), p. 26.

<sup>62</sup> Acts 1935; Burns, 1941 suppl., 35-711; Baldwin 1935 suppl., 3863-1. State Board of Health, *op. cit.*, Rule LB4, p. 32.

<sup>63</sup> Acts 1911, ch. 98, sec. 3. (repealed by Acts 1935, ch. 271, sec. 1). State Board of Health, *op. cit.*, Rules 41-43, p. 28.

killed;<sup>64</sup> and formerly, in case there was danger of the outbreak or spread of hydrophobia, ordered the muzzling or quarantining of all animals, of kinds designated by him, within his jurisdiction, with the consent and aid of the sheriff.<sup>65</sup>

He receives a book of instructions and various printed forms from the State Board of Health;<sup>66</sup> keeps complete records of his work;<sup>67</sup> and makes weekly,<sup>68</sup> monthly,<sup>69</sup> quarterly,<sup>70</sup> and other reports to the State Board of Health.<sup>71</sup> A retiring health officer may keep possession of the books of his office for 10 days after surrendering his office to his successor, in order to make reports for the last month of his incumbency; and, after such 10 days, said books (including book of instructions) and all blank forms and supplies must be delivered to the new incumbent, who must immediately bring all records up to date.<sup>72</sup>

331. RECORD OF DANGEROUS DISEASES TO PUBLIC, Feb. 9, 1882-Jan. 24, 1910, 1922-. 5 vols. Title varies: Record of Dangerous Diseases, Feb. 9, 1882-Jan. 24, 1910, 4 vols.

Record of contagious and infectious diseases, showing case number; name, age, sex, and race of patient; nature of disease; dates reported, quarantined, and released; and name of person reporting. Arr. chron. by date of report, Feb. 9, 1882-Jan. 24, 1910; numer. by case no., 1922-. No index. Hdw. 4 vols. 159 pp. 16 x 11 x 1½, Feb. 9, 1882-Jan. 24, 1910, clk. vt.; 1 vol. 200 pp. 18 x 12 x 1, 1922-, lith. offr. off., 119 W. 8th. St., Rochester.

332. DEATHS, 1934-. 2 vols.

Record of deaths outside incorporated cities and towns reported to health officer, showing dates of death and report;

<sup>64</sup> Acts 1911, ch. 98, sec. 4 (repealed by Acts 1935, ch. 271, sec. 1).

<sup>65</sup> Acts 1911, ch. 98, sec. 5 (repealed by Acts 1935, ch. 271, sec. 1).

<sup>66</sup> Acts 1907, 1910; Burns 35-116; Baldwin 8399. State Board of Health, *op. cit.*, pp. 3,

4, 12.

<sup>67</sup> Acts 1891, 1909; Burns 35-111, 35-115; Baldwin 8405, 8398. State Board of Health, *op. cit.*,

Rules 3, 4, 6, 7, pp. 9-12.

<sup>68</sup> State Board of Health, *op. cit.*, Rule 6, p. 11.

<sup>69</sup> Acts 1907, 1919, 1929, 1935; Burns, 1941 suppl., 35-703; Baldwin, 1935 suppl., 13394.

State Board of Health, *op. cit.*, Rules 3, 4, pp. 9, 10.

<sup>70</sup> State Board of Health, *op. cit.*, Rules 1, 5, pp. 9, 11.

<sup>71</sup> Acts 1891, 1909, Burns 35-111; Baldwin 8405. Acts 1935; Burns, 1941 suppl., 35-118; Baldwin,

1935 suppl., 8404-1. State Board of Health, *op. cit.*, Rule 10, p. 13.

<sup>72</sup> State Board of Health, *op. cit.*, Rule 7(2), p. 12.

name, age, sex, race, and nationality of deceased; nature and duration of illness; place of death; names of attending physician and undertaker; and place of burial. Arr. chron. by date of report. Indexed alph. by name of deceased. Hdw. 200 pp. 18 x 12 x 1. Hlth. offr. off. 119 W. 8th St., Rochester.

333. RECORD OF DEATHS, July 14, 1882-. 9 vols. (dated). Record of deaths reported to health officer, showing information as in entry 332. Arr. chron. by date of entry. Indexed alph. by name of deceased. Hdw. 400 pp. 18 x 12 x 1½. Clk. vt.

334. RECORD OF BIRTHS, 1882-. 23 vols.

Record of births in county, showing information as in entry

335. Arr. chron. by date of birth and alph. thereunder by name of child. No index. Hdw. 210 pp. 18 x 12 x 1½. Clk. vt. 335. BIRTHS, 1918-. 3 vols.

Record of births in county outside incorporated cities and towns, showing dates of birth and report; name, sex, and color of child; names and ages of parents; and name of attending physician. Arr. chron. by date of birth and alph. thereunder by name of child. No index. Hdw. 200 pp. 18 x 12 x 1½. Hlth. offr. off., 119 W. 8th St., Rochester.

## XXXVI. COUNTY DEPARTMENT OF PUBLIC WELFARE

### EVOLUTION AND STRUCTURAL ORGANIZATION

The county department of public welfare has existed in Fulton County ever since 1936 under the requirements of an act of 1936. The department's affairs are administered by the county board of public welfare and a county director of public welfare.<sup>1</sup> The department is a legal entity and its official name is "The County Department of Public Welfare of Fulton County." It may sue and be sued in that name.<sup>2</sup>

The county board of public welfare consists of five members appointed for 4-year terms by the judge of the circuit court. Each member serves until his successor is appointed and qualified. At least two members must be women and not more than three members may be adherents of the same political party. The members must have resided in the county for

<sup>1</sup> Acts 1936 (Spec. Sess.), 1937; Burns, 1941 suppl., 52-1117 to 52-1119, 52-1126; Baldwin, 1937 suppl., 14078-18 to 14078-20, 14078-27.

<sup>2</sup> Acts 1936 (Spec. Sess.); Burns, 1941 suppl., 52-1122(a); Baldwin, 1937 suppl., 14078-23.



2 years before appointment, must have a definite and recognized interest in public welfare, and must take an oath to support the State and Federal Constitutions and faithfully discharge the duties of this office.<sup>3</sup>

The judge of the circuit court may, at any time after due notice in writing, remove any member of the county board of public welfare for misconduct, incapacity, or neglect of duty. A vacancy in the membership of this board is filled through appointment by the judge of the circuit court; and the appointee holds office for the unexpired term and until his successor is appointed and qualified.<sup>4</sup>

Regular meetings of the county board of public welfare are held once a month. The August meeting is known as the annual meeting. Other meetings may be held pursuant to call. Three members of the board constitute a quorum for transacting business.<sup>5</sup>

The members of the county board of public welfare serve without compensation, but each member is entitled to receive 5 cents per mile for each mile actually and necessarily traveled in attending board meetings and State conventions of county board members.<sup>6</sup>

Executive and administrative work of the county department of public welfare is carried on by the county director of public welfare, who serves as secretary of the board. He is appointed by the county board of public welfare to serve for an indefinite term. The appointment is made solely on the basis of merit from eligible lists established by the Indiana State Department of Public Welfare. He must have resided in the county for 2 years before appointment, unless no suitable person with such residence is available. The director must take an oath that he will support the State and Federal Constitutions and will faithfully discharge the duties of his office. He must post bond in an amount (not exceeding \$5,000) fixed by the State Department of Public Welfare, to be approved by the judge of the circuit court and filed in the office of the clerk of the circuit court.<sup>7</sup>

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<sup>3</sup> Const. 1851, art. 15, sec. 4. 1 Rev. Stat. 1852; Burns 49-101; Baldwin 13054. Acts 1936 (Spec. Sess.), 1937; Burns, 1941 suppl., 52-1118; Baldwin, 1937 suppl., 14078-19

<sup>4</sup> Acts 1936 (Spec. Sess.), 1937; Burns, 1941 suppl., 52-1118; Baldwin, 1937 suppl., 14078-19.

<sup>5</sup> *Ibid.*

<sup>6</sup> *Ibid.*

<sup>7</sup> Const. 1931, art. 15, sec. 4. 1 Rev. Stat. 1852; Burns 49-101; Baldwin 13054. Acts 1936 (Spec. Sess.), 1937; Burns, 1941 suppl., 52-1119; Baldwin, 1937 suppl., 14078-20.

The county director of public welfare may be removed from office at any time by the county board of public welfare. If the State Department, after notice and hearing, determines that the county director's duties, functions, and activities are not performed in compliance with the welfare laws and regulations, the State Department may order the county board to remove him from office. Vacancies in the office of county director are filled in the manner in which original appointments are made, except as otherwise stated hereinafter. If a successor is not appointed within 30 days after removal is ordered by the State Department, or if any vacancy is not filled by the county board within 30 days after the vacancy occurs, the State Department may appoint a successor to serve at the pleasure of the State Department.<sup>8</sup>

The county director of public welfare receives a salary in an amount fixed by the county board of public welfare, within the salary ranges established by the State Department. He also receives 5 cents per mile for each mile necessarily traveled in the discharge of his duties.<sup>9</sup>

The county director, with the approval of the county board, appoints the assistants in the department, from eligible lists compiled by the State Department of Public Welfare, and determines the salaries of these assistants. Each assistant must have been a resident of the county for 2 years before his appointment, unless a suitable person with such residence is not available.<sup>10</sup>

#### FUNCTIONS AND RECORDS

Subject to the rules and regulations prescribed by the State Department of Public Welfare, the county department is charged by statute with the administration of old-age assistance; aid to dependent children in their own homes; the care and treatment of dependent, neglected, and handicapped children and those in danger of becoming delinquent; and services and assistance to the blind and to persons otherwise handicapped. The county director performs the duties prescribed by law for the probation officer of any court having jurisdiction of persons on probation (concerning any welfare matters before the court), when so directed by such court;

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<sup>8</sup> Acts 1936 (Spec. Sess.), 1937; Burns, 1941 suppl., 52-1119; Baldwin, 1937 suppl., 14078-20.

<sup>9</sup> *Ibid.* Information obtained from Thurman A. Gottschalk, administrator of the State Department of Public Welfare, on February 27, 1941, by William E. Chambers.

<sup>10</sup> Acts 1936 (Spec. Sess.), 1937; Burns, 1941 suppl., 52-1123; Baldwin, 1937 suppl., 14078-24.

but he cannot hold the office of probation officer. The county department must report to the State Department "at such times and in such manner as the State Department may, from time to time, direct." Necessary quarters for the county department must be provided by the board of commissioners.<sup>11</sup>

Expenditures for welfare assistance and administrative expenses (including rent of office quarters) of the county department are paid from the county welfare fund raised by a separate tax levy,<sup>12</sup> to which are added such repayments as may be made under legal liability by recipients, their parents, children, or other persons liable for their support.<sup>13</sup>

As partial reimbursement for the amount paid for assistance to aged persons and dependent children, the county receives 50 percent from the Federal Government and 60 percent of the remainder from the State.<sup>14</sup> Any funds received by the State from the Federal Government for child welfare and the care and treatment of crippled children are divided among the counties as the State Board may determine.<sup>15</sup> For personal services in the county administration of the welfare act, the county receives 50 percent from the State, plus a proportional part of such other funds as may be received by the State from the Federal Government to apply on administrative expenses. These reimbursements are paid into the county welfare fund.<sup>16</sup>

All claims for administrative expenses are subject to allowances by the board of commissioners. Claims for assistance are determined by the department and approved by the director, and need not be allowed by the board of commissioners.<sup>17</sup> The county board of public welfare may accept

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<sup>11</sup> Acts 1936 (Spec. Sess.); Burns, 1941 suppl., 52-1113, 52-1120; Baldwin, 1937 suppl., 14078-14, 14078-21. Op. Atty. Gen. 1936, p. 155.

<sup>12</sup> Acts 1936 (Spec. Sess.); Burns, 1941 suppl., 52-1120, 52-1301; Baldwin, 1937 suppl., 14078-21, 14078-98.

<sup>13</sup> Acts 1936 (Spec. Sess.); Burns, 1941 suppl., 52-1263; Baldwin, 1937 suppl., 14078-94.

<sup>14</sup> Acts 1936 (Spec. Sess.); Burns, 1941 suppl., 52-1220, 52-1249; Baldwin, 1937 suppl., 14078-51, 14078-80.

<sup>15</sup> Acts 1936 (Spec. Sess.); Burns, 1941 suppl., 52-1254, 52-1258; Baldwin, 1937 suppl., 14078-85, 14078-89.

<sup>16</sup> Acts 1936 (Spec. Sess.), 1937; Burns, 1941 suppl., 52-1124a; Baldwin, 1937 suppl., 14078-24a. Information obtained from Thurman A. Gottschalk, administrator of the State Department of Public Welfare, on December 2, 1940 by William E. Chambers.

<sup>17</sup> Acts 1936 (Spec. Sess.); Burns, 1941 suppl., 52-1124; Baldwin, 1937 suppl., 14078-25.

gifts of personal property or income from real estate, for the homes or support of dependent children.<sup>18</sup>

The auditor keeps the records relating to the county welfare fund and its financial transactions.<sup>19</sup> The county department keeps such records and accounts as are required by the State Department of Public Welfare.<sup>20</sup> All records are confidential, except the following: (a) Applications for assistance, (b) awards, and (c) modification and revocation of awards.<sup>21</sup>

#### PROCEEDINGS

##### 336. MINUTE BOOK, 1936-. 1 vol.

Minutes of meetings of county board of public welfare, showing date of meeting, names of members present, business transacted, and action taken. Arr. chron. by date of meeting. No index. Typed. 600 pp. 13 x 18 x 3. Pub. welf. off.

##### 337. RECOMMENDATION OF COUNTY DIRECTORS OF PUBLIC WELFARE AS TO REJECTIONS, AWARDS AND REVOCATIONS. 1936-. 1 vol.

Record of recommendations by county director of public welfare and action by county board, showing dates of recommendation and action; application number; name, age, sex, color, and address of applicant; date of award, rejection or revocation; amount of award; and nature of recommendations. Arr. numer. by application no. No index. Typed. 100 pp. 11 x 15 x 1. Pub. welf. off.

##### 338. [APPOINTMENTS TO STAFF POSITIONS], 1936-. 1 vol.

Record of appointments to staff positions by county director of public welfare, showing dates of appointment and filing of record; name, age, address, title, salary, and monthly travel allowance of appointee; and list of eligibles for appointments. Arr. chron. by date of filing. No index. Typed. 175 pp. 8½ x 11 x 1. Pub. welf. off.

##### 339. [AUTHORIZATION TO ADMINISTER OATHS], 1936-. 1 vol.

Copies of authorization by board of public welfare to staff

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<sup>18</sup> Acts 1936 (Spec. Sess.); Burns, 1941 suppl., 52-1122(b); Baldwin, 1937 suppl., 14078-23.

<sup>19</sup> Acts 1936 (Spec. Sess.); Eurns, 1941 suppl., 52-1401; Baldwin, 1937 suppl., 14078-113.

<sup>20</sup> Acts 1936 (Spec. Sess.); Burns, 1941 suppl., 52-1260, 52-1402; Baldwin, 1937 suppl., 14078-91, 14078-114.

<sup>21</sup> Acts 1936 (Spec. Sess.); Burns, 1941 suppl., 52-1262; Baldwin, 1937 suppl., 14078-93.



members to administer oaths and affirmations, showing dates of authorization and filing and name and title of staff member. Arr. alph. by name of person authorized. No index. Hdw. 200 pp. 8½ x 13 x 1. Pub. welf. off.

#### OLD-AGE AND BLIND ASSISTANCE

340. [CARD INDEX OF APPLICATIONS], 1936-. 2 f. d.

Card index to register of applications for assistance, entry 341; and aid to blind, entry 342; aid to dependent children, entry 350; foster home applications, entry 351, showing date and number of application, name and address of applicant, and action taken. Arr. alph. by name of applicant. Typed. 15 x 4 x 4. Pub. welf. off.

341. REGISTER OF APPLICATIONS FOR ASSISTANCE, 1936-. 5 vols. Register of applications for old-age assistance, showing date and number of application; name, address, age, and sex of applicant; name of visitor; and action taken by board. Arr. numer. by application no. Indexed alph. by name of applicant; also separate index, entry 340. Hdw. 300 pp. 9 x 15 x 2. Pub. welf. off.

342. [BLIND Application Register], 1936-. 1 vol. Register of applications for aid to blind, showing date and number of application; name, address, age, and sex of applicant; name of visitor; and action taken by county board of public welfare. Arr. numer. by application no. Indexed alph. by name of applicant; also separate index, entry 340. Hdw. 150 pp. 9 x 15 x 2. Pub. welf. off.

343. RECORD OF ASSISTANCE GIVEN AGED PERSONS, 1936-. 4 vols. Record of awards and payments made to the aged, showing application number; name and address of recipient; date, amount, and warrant number of each payment; burial expenses; total amount paid; assignment of life insurance and other assets; and amount recovered at recipient's death. Arr. numer. by application no. Indexed alph. by name of recipient. Hdw. 200 pp. 9 x 14 x 2. Pub. welf. off.

344. ACTIVE CASES, 1936-. 3 f. b. Original documents of active old-age assistance cases, consisting of applications, statements by applicants and relatives, investigators' reports, and certificates of award, showing date of document, application number, and name and address of applicant. Arr. numer. by application no. Indexed alph. by name of applicant. Hdw. 24 x 13 x 11. Pub. welf. off.

## 345. IN-ACTIVE CASES, 1936-. 3 f. b.

Records of inactive old-age assistance cases, consisting of applications, statements by applicants and relatives, investigators' reports, and certificates of award, showing information as in entry 344. Arr. numer. by application. Indexed alph. by name of applicant. Hdw. 24 x 13 x 11. Pub. welf. off.

## 346. CASES PENDING, 1936-. 2 f. b.

Applications for assistance pending investigation and action by board, showing date and number of application, name and address of applicant, and visitor assigned. Arr. numer. by application no. No index. Hdw. 24 x 13 x 11. Pub. welf. off.

## 347. [MONTHLY STATISTICAL REPORTS], 1936-. 5 f. b.

Record of monthly statistical reports of applications for old-age assistance, showing date of report; application number; name, address, age, and sex of applicant; nature of application; action taken; total number applications received, granted, and rejected during month; and number cases pending from previous month, transferred from other counties, and open cases. Arr. chron. by date of report. No index. Typed. 24 x 13 x 11. Pub. welf. off.

## 348. [ASSIGNMENT REGISTER], 1936-. 2 vols.

Record of assignments of life insurance policies and other assets by recipients of old-age assistance, showing application number; name of applicant; date, number, and amount of insurance policy; name and address of insurance company; description and valuation of other personal assets; and location, description, and valuation of real property. Arr. numer. by application no. Indexed alph. by name of applicant. Typed. 200 pp. 9 x 14 x 3. Pub. welf. off.

## 349. [DUPLICATE RECEIPTS], 1936-. 2 vols.

Copies of receipts issued to persons reimbursing county welfare department for assistance received, showing date, amount, number, and purpose of receipt. Arr. numer. by receipt no. No index. Hdw. 100 pp. 9 x 18 x 1. Pub. welf. off.

## DEPENDENT CHILDREN

(See also entries 340 and 346).

## 350. [APPLICATION FOR AID TO DEPENDENT CHILDREN], 1936-.

2 f. b.

Register of applications for aid to dependent children, showing dates of application and filing; application number; name and address of applicant; names of parents, guardian or cus-

todian; and action of board. Arr. numer. by application no. Indexed alph. by name of applicant; also separate index, entry 340. Hdw. 24 x 13 x 11. Pub. welf. off.

351. [FOSTER HOME APPLICATIONS], 1927-. 1 vol.

Register of applications for placement of children in foster homes, showing date and number of application; name, age, and sex of child; name of visitor assigned; and date of approval or rejection. Arr. numer. by application no. Indexed alph. by name of applicant; also separate index, entry 340. Hdw. 100 pp. 9 x 15 x 2. Pub. welf. off.

352. RECORD OF ASSISTANCE GIVEN DEPENDENT CHILDREN, 1936-.  
3 vols.

Record of awards to dependent children, showing application and certificate of award numbers; names of child and parents or guardian; amount of award; and date, number, and amount of warrant. Arr. numer. by application no. No index. Hdw. 100 pp. 9 x 15 x 1. Pub. welf. off.

353. [CRIPPLED CHILDREN ASSISTANCE], 1937-. 2 vols.

Record of services rendered and claims paid for crippled children, showing dates of application, claim, and warrant; names and addresses of child, parents or guardian; name and address of hospital; application and warrant numbers; and amounts of claim and warrant. Arr. numer. by application no. No index. Hdw. 100 pp. 9 x 15 x 1. Pub. welf. off.

MISCELLANEOUS RECORDS

354. APPLICATIONS FOR ENROLLMENT IN THE CIVILIAN CONSERVATION CORPS, 1939-. 1 f. b.

Applications for enrollment in the Civilian Conservation Corps, showing date of application; name, age, address, and physical description of applicant; number of dependents; citizenship status; name of visitor assigned; and action taken. Arr. chron. by date of application. Indexed alph. by name of applicant. Typed. 24 x 13 x 11. Pub. welf. off.

355. [PAROLE RECORD], 1936-. 1 vol.

Records of parolees from penal institutions, showing date of parole; name, addresses, age, sex, occupation, and criminal record of parolee; and name of sponsor. Arr. alph. by name of parolee. No index. Hdw. 100 pp. 6 x 9 x 1. Pub. welf. off.

## RECEIPTS, APPROPRIATIONS, AND DISBURSEMENTS

356. [RECEIPTS, APPROPRIATIONS, AND DISBURSEMENTS], 1936-.  
3 vols.

Record of appropriations, receipts, and disbursements, showing dates and amounts of appropriations, receipts, and disbursements; warrant and quietus numbers; and fund. Arr. chron. by date of entry. No index. Hdw. 200 pp. 11 x 15 x 1. Pub. welf. off.

## CLAIMS

357. REGISTER OF CLAIMS FILED, APPROVED AND WARRANTS ISSUED, 1936-. 4 vols.

Register of all claims for assistance filed, approved, and paid, showing dates, amounts, and numbers of claim and warrant, appropriation and account numbers, and name of payee. Arr. chron. by date of claim. No index. Hdw. 100 pp. 16 x 10 x 1. Pub. welf. off.

358. [RECOVERY CLAIMS], 1936-. 2 vols.

Register of claims filed against estates of deceased recipients of public assistance, showing dates of filing and settlement, names of deceased and trial court, docket number, value of estate, and amount of claim. Arr. chron. by date of filing. No index. Typed. 200 pp. 8½ x 13 x 1. Pub. welf. off.

359. [CLAIMS, BURIAL REIMBURSEMENT], 1936-. 2 vols.

Record of claims filed with State Department of Public Welfare for State's portion of burial expenses of relief recipients, showing name of deceased and date and amount of claim. Arr. chron. by date of claim. No index. Typed. 100 pp. 8½ x 11 x 1. Pub. welf. off.

360. [CLAIMS], 1936-. 2 vols.

Record of claims of staff members and employees for services rendered and expenses, showing date, number, and amount of claim and warrant; name of claimant; and total earnings of employee. Arr. chron. by date of claim. No index. Typed. 150 pp. 9 x 18 x 2. Pub. welf. off.

## MAP

361. MAP OF FULTON COUNTY, 1936-. 1 map.

Communications map of Fulton County, showing date of map; names and boundary lines of townships; and names and locations of cities, towns, roads, railroads, churches, schools, and streams. Walter W. Wilson, draftsman. Handdrawn. No scale given. 35 x 48. Pub. welf. off.



## XXXVII. BOARD OF CHILDREN'S GUARDIANS (1901-36)

## EVOLUTION AND STRUCTURAL ORGANIZATION

From 1901 until 1936 Fulton County had a board of children's guardians, composed of six members appointed for 3-year terms by the judge of the circuit court. Two members were appointed each year. Three members were women and three or more were parents.<sup>1</sup>

## FUNCTIONS AND RECORDS

This board had the care and supervision of neglected and dependent children residing in the county. The board could indenture children as apprentices, authorize adoption without the consent of parents, or make other suitable disposition of such children. The action of the board was subject to the approval of the circuit court.<sup>2</sup> The board of commissioners had the authority to provide a house of suitable size and convenience for the accomodation of the children placed in the custody of the board of children's guardians. The board of commissioners provided funds necessary for employment of agents and assistants of the board of children's guardians, and for defraying all operating expenses of the home, and made an allowance of 30 cents per day for food and clothing of each child under the care of the board of children's guardians.<sup>3</sup>

An act of 1936 abolished this board and transferred its duties to the county department of public welfare.<sup>4</sup>

XXXVIII. BOARD OF COUNTY CHARITIES AND CORRECTIONS  
(1900-19)

## LEGAL STATUS

From 1900 until 1936 Fulton County had a board of county charities and corrections, composed of 6 members appointed for 3-year terms by the judge of the circuit court upon petition of 15 reputable citizens. Two members were appointed each year. Not more than 4 were men and not more than 3

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<sup>1</sup> Acts 1901, 1923, 1927; Burns 22-2801; Baldwin 4684.

<sup>2</sup> Acts 1901, 1923; Burns 22-2802; Baldwin 5685.

<sup>3</sup> Acts 1901, 1919, 1923; Burns 22-2805; Baldwin 5688.

<sup>4</sup> Acts 1936 (Spec. Sess.), 1937; Burns, 1941 suppl., 52-1121, 52-1410; Baldwin, 1937 suppl.,

were of the same political party. A chairman and secretary were selected from the members of the board.<sup>1</sup>

#### FUNCTIONS AND RECORDS

The purpose of the board was to give advice on the operation of correctional and charitable institutions of the county. The board met quarterly; visited and inspected, at least once each quarter, the poor asylum, county jail, orphans' home, and other charitable and correctional institutions receiving support from public funds; examined every department of each institution, studied rules laid down by the board of commissioners for their operation and suggestions offered by the Board of State Charities;<sup>2</sup> made reports, from time to time, of suggested improvements to the board of commissioners or the officials having jurisdiction; made quarterly reports to the board of commissioners on the condition of the institutions visited; and reported annually to the circuit court judge. Copies of these reports were sent to the Board of State Charities.<sup>3</sup>

An act of 1936 abolished this board and transferred its duties to the county department of public welfare.<sup>4</sup>

### XXXIX. SURVEYOR

#### LEGAL STATUS

The office of surveyor has existed in Fulton County since 1836 under the requirements of acts of 1831, 1833, 1838, and 1843 and the Constitution of 1851. The surveyor is elected by the voters of the county for a 2-year term, without restriction on reelection.<sup>1</sup> His term begins on the first day of January following his election.<sup>2</sup> He is commissioned by the Governor of Indiana<sup>3</sup> and holds office until his successor is elected and

<sup>1</sup> Acts 1899; Burns 22-2901, 22-2902; Baldwin 4116, 4117.

<sup>2</sup> Acts 1899; Burns 22-2903; Baldwin 4118.

<sup>3</sup> Acts 1899; Burns 22-2903, 22-2904; Baldwin 4118, 4119.

<sup>4</sup> Acts 1936 (Spec. Sess.), 1937; Burns, 1941 suppl., 52-1121; Baldwin, 1937 suppl., 14078-22.

See the essay entitled, "County Department of Public Welfare."

<sup>1</sup> Const. 1851, art. 6, sec. 2. 1 Rev. Stat. 1852; Burns 49-3301; Baldwin 5504. See footnotes 15 and 16 herein.

<sup>2</sup> Acts 1929; Burns 49-207; Baldwin 5566.

<sup>3</sup> Const. 1851, art. 15, sec. 6. Acts 1817-18 (general), ch. 30, sec. 1. Rev. L. 1824, ch. 104, sec. 1. 1 Rev. Stat. 1852; Burns 49-201; Baldwin 13095.

qualified.<sup>4</sup> The surveyor must be an elector of the county at the time of his election, must have been an inhabitant thereof throughout the preceding year,<sup>5</sup> must reside within the county after his election, and must not hold any other lucrative office.<sup>6</sup> He must post bond in an amount of not less than \$5,000, to be approved by the board of commissioners and filed with the clerk of the circuit court,<sup>7</sup> and must take an oath to support the State and Federal Constitutions and faithfully discharge the duties of his office.<sup>8</sup>

The surveyor is entitled to receive a regular salary of \$850 per year for his services as county surveyor. The law provides that his salary shall be one and one-half times that amount if he is "a qualified licensed engineer." While serving as county highway supervisor he is entitled to receive a regular salary in an amount fixed by the board of commissioners, equivalent to not less than \$2 nor more than \$3 per year for each mile of highway under his supervision (to be determined at the January session each year). He cannot receive both salaries. When he furnishes his own or a hired conveyance, he receives 6 cents for each mile necessarily traveled by him while performing his duties concerning drainage and 5 cents for each mile necessarily traveled in the discharge of his duties as county highway supervisor.<sup>9</sup> He is not entitled to retain, as compensation for himself, any fees collected by him.<sup>10</sup>

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<sup>4</sup> Const. 1851, art. 15, sec. 3. Acts 1822-23, ch. 76, sec. 2. *Pursel v. State ex rel. Roney*, 111 Ind. 519, 12 N. E. 1303 (1887); *Boyles v. State ex rel. Riggs*, 112 Ind. 147, 13 N. E. 415 (1887).

<sup>5</sup> Const. 1851, art. 6, sec. 4.

The surveyor is not required to be a registered professional engineer or land surveyor. *Op. Atty. Gen.* 1939, p. 269.

<sup>6</sup> Const. 1851, art. 2, sec. 9; art. 6, sec. 6. *Rev. L.* 1831, ch. 102, sec. 1. *Rev. Stat.* 1838, ch. 103, sec. 1. *State ex rel. Bateman v. Hart*, 181 Ind. 592, 105 N. E. 149 (1914). *Op. Atty. Gen.* 1934, p. 500; 1935, p. 103.

<sup>7</sup> *Rev. L.* 1831, ch. 102, sec. 1. *Rev. Stat.* 1838, ch. 103, sec. 1. *Rev. Stat.* 1843, ch. 10, sec. 2. Acts 1905; Burns 10-3708; Baldwin 2660. 1 *Rev. Stat.* 1852; Burns 49-105, 49-120; Baldwin 13063, 13068. Acts 1913; Burns 49-3302 to 49-3304; Baldwin 5505 to 5507.

<sup>8</sup> Const. 1851, art. 15, sec. 4. *Rev. L.* 1831, ch. 102, sec. 1. *Rev. Stat.* 1838, ch. 103, sec. 1. *Rev. Stat.* 1843, ch. 10, sec. 2. Acts 1905; Burns 10-3708; Baldwin 2660. 1 *Rev. Stat.* 1852; Burns 49-101; Baldwin 13054.

<sup>9</sup> Acts 1925, ch. 120, sec. 1. Acts 1933; Burns 27-103, 36-1101, 36-1110, 49-1004, 49-1010; Baldwin 5739, 8599, 8078, 7534, 7540.

He receives no additional compensation for doing engineering work for the county highway supervisor. *Op. Atty. Gen.* 1939, p. 269.

<sup>10</sup> Acts 1933; Burns 49-1005; Baldwin 7535.

For sufficient legal causes the surveyor may be removed from office by the circuit court, after trial by jury on an accusation presented by the grand jury or verified by the oath of any person.<sup>11</sup> If the surveyor is convicted of a felony the judgment of conviction must declare his office vacant.<sup>12</sup>

Any vacancy in the office of surveyor is filled through appointment by the board of commissioners. The appointee must take oath and post bond as was required of his predecessor. The appointee holds office for the unexpired term and until his successor is elected and qualified.<sup>13</sup>

The board of commissioners may appoint, on the recommendation of the surveyor, such number of deputy surveyors as may be necessary; determine whether they be full-time or part-time employees; and fix the salary of each deputy in an amount not exceeding \$200 per month. Such salaries are paid from the county treasury after an appropriation therefor is made by the county council. The surveyor may require any deputy to give bond. Each deputy must take an oath of office, may perform all of the surveyor's official duties, is subject to the same regulations and penalties, and may be removed from office by the board of commissioners. Each township trustee is an ex officio deputy surveyor (without additional compensation) in his township.<sup>14</sup>

From the organization of Fulton County in 1836<sup>15</sup> until 1843 the surveyor was appointed for a 3-year term by the judges of the circuit court. From 1849 until 1851 the board of commissioners made these appointments.<sup>16</sup>

<sup>11</sup> Const. 1851, art. 2, secs. 6, 7; art. 6, sec. 8. Rev. Stat. 1843, ch. 10, sec. 3. Acts 1897, 1899; Burns 49-821 to 49-834, 49-836; Baldwin 13154 to 13166, 13050, 13168. Acts 1875; Burns 49-837; Baldwin 13052.

<sup>12</sup> Acts 1897, 1899; Burns 49-834; Baldwin 13050.

<sup>13</sup> Const. 1851, art. 6, sec. 9. Acts 1881 (Spec. Sess.); Burns 29-701; Baldwin 7081. 1 Rev. Stat. 1852; Burns 49-405, 49-403, 49-409; Baldwin 13104, 13106, 13107. State ex rel. Culbert v. Linkhauer, 142 Ind. 94, 41 N. E. 325 (1895). Information obtained from Omer Stokes Jackson, Attorney General of Indiana, on August 29, 1939, by W. Davis Hamilton.

<sup>14</sup> Rev. L. 1831, ch. 102, secs. 2, 4. Rev. Stat. 1838, ch. 103, secs. 2, 4. Rev. Stat. 1843, ch. 10, secs. 20, 22. Acts 1933; Burns 27-102; Baldwin 5738. 1 Rev. Stat. 1852, Acts 1855, 1925; Burns 49-501; Baldwin 13108. 1 Rev. Stat. 1852; Burns 49-502, 49-3305, 49-3307. Baldwin 13109, 5511, 5513. Acts 1899; Burns 49-3306; Baldwin 5512. Acts 1933, 1935, 1937; Burns, 1941 suppl., 49-3330; Baldwin, 1937 suppl., 5511-1. Op. Atty. Gen. 1939, p. 269.

<sup>15</sup> Fulton Organization Acts. Acts 1834-35 (general), ch. 25, sec. 8. Acts 1835-36 (general), ch. 16, sec. 1.

<sup>16</sup> Rev. L. 1831, ch. 102, sec. 1. Acts 1832-33, ch. 74, secs. 4, 5. Rev. Stat. 1838, ch. 103 (first act), sec. 1; ch. 103 (second act), secs. 4, 5. Rev. Stat. 1843, ch. 4, sec. 48; ch. 10, sec. 1.



## FUNCTIONS AND RECORDS

The surveyor has charge, under the direction of the board of commissioners, of all surveying and civil engineering of the county; has charge of the preparation of plans and specifications for the construction of all roads, bridges, ditches, drains, and levees; supervises such construction; has charge of the maintenance of all ditches and drains;<sup>17</sup> acts with viewers in locating new roads and ditches;<sup>18</sup> must clean driftage and obstructions from streams when landowners refuse to do so;<sup>19</sup> may advertise and let contracts for drainage ditches;<sup>20</sup> must approve all contracted construction work before claims thereon are allowed;<sup>21</sup> and formerly made inspections and surveys on certain lands owned by the United States Government, and made reports thereon to the Governor of the State.<sup>22</sup> If the surveyor is not a licensed engineer or is disqualified from performing his duties by reason of ownership of lands or kinship to any person whose lands are affected, the court appoints a disinterested licensed engineer to act in the matter.<sup>23</sup> From 1885 until 1933 the surveyor served ex officio as a drainage commissioner with a drainage commissioner appointed by the board of commissioners.<sup>24</sup>

Since 1933 it has been the duty of the county surveyor to supervise the maintenance of county highways, bridges, and culverts, unless the board of commissioners appoints another person to serve as county highway supervisor.<sup>25</sup> Fulton County now has a county highway supervisor other than the

<sup>17</sup> Acts 1891, ch. 115, sec. 4; ch. 196, secs. 3, 22, 23. Acts 1901, ch. 100, sec. 3. Acts 1941, ch. 63. Acts 1933; Burns 27-101, 27-103, 27-104, 27-107 to 27-109, 27-111 to 27-116, 27-202; Baldwin 5737, 5739, 5740, 5743 to 5745, 5747 to 5752, 5776. Acts 1933, 1935, 1941; Burns, 1941 suppl., 27-203; Baldwin, 1941 suppl., 5777. Acts 1919; Burns 36-306, 36-307, 36-325; Baldwin 8864, 8865, 8877. 1 Rev. Stat. 1852, Acts 1911; Burns 49-3309; Baldwin 5508. Acts 1919, 1941; Burns, 1941 suppl., 64-1010; Baldwin, 1941 suppl., 15676.

Work done by employees of Civilian Conservation Corps or Work Projects Administration under supervision of the county surveyor. Acts 1939; Burns, 1941 suppl., 27-233; Baldwin, 1939 suppl., 5794-9.

<sup>18</sup> Acts 1933; Burns 27-109; Baldwin 5745. Acts 1905; Burns 36-221; Baldwin 8777.

<sup>19</sup> Acts 1933; Burns 27-207; Baldwin 5781.

<sup>20</sup> Acts 1933; Burns 27-118; Baldwin 5754.

<sup>21</sup> Acts 1899; Burns 26-539; Baldwin 5404.

<sup>22</sup> Rev. L. 1831, ch. 83, sec. 1.

<sup>23</sup> Rev. L. 1831, ch. 102, sec. 3. Rev. L. 1838, ch. 103, secs. 3, 20. Acts 1907, ch. 252, secs. 3, 20. Acts 1933; Burns 27-102; Baldwin 5738. Acts 1911; Burns 49-3309; Baldwin 5508.

<sup>24</sup> Acts 1885 (Spec. Sess.), ch. 40, sec. 1. Acts 1905, ch. 157, secs. 1, 14. Acts 1907, ch. 252, secs. 1, 21. Acts 1933, ch. 264, sec. 81.

<sup>25</sup> Acts 1933; Burns 36-1101, 36-1110; Baldwin 8699, 8708.

surveyor.<sup>26</sup> The surveyor is required to attend all sessions of the annual road school conducted by Purdue University. His expenses for such attendance are paid from the general fund of the county.<sup>27</sup>

On application of the surveyor it is the duty of the board of commissioners to provide for the location and establishment of a true and permanent meridian line at or near the county seat and upon public lands belonging to the county. After the completion and location of such established meridian line, the surveyor must file with the recorder a complete description of the marked meridian line and thereafter check his instruments against the line as often as necessary.<sup>28</sup>

The surveyor administers certain oaths,<sup>29</sup> takes acknowledgments of mortgages and deeds for the conveyance of real estate,<sup>30</sup> and makes surveys to establish lines and corners of any lands in the county when requested to do so.<sup>31</sup> Surveys made by the surveyor are prima facie evidence in favor of the corners established and the lines run, but an appeal to the circuit court may result in a resurvey by some other competent person.<sup>32</sup> For his services other than for the county he charges the fees provided by statutory schedule and pays the same over to the county treasurer.<sup>33</sup>

The deputies return to the surveyor all field notes taken by them.<sup>34</sup> The surveyor is required to preserve a copy of the original field notes of the surveys of the townships in his county,<sup>35</sup> keep a record of all surveys made by him.<sup>36</sup>

<sup>26</sup> See the essay entitled "County Highway Supervisor."

<sup>27</sup> Acts 1925; Burns 49-3323; Baldwin 5520.

<sup>28</sup> Acts 1895; Burns 49-3327, 49-3328; Baldwin 10849, 10850.

<sup>29</sup> Acts 1827-23, ch. 89. Rev. Stat. 1838, ch. 103, sec. 4. 1 Rev. Stat. 1852; Burns 49-3316; Baldwin 5518.

<sup>30</sup> 1 Rev. Stat. 1852, Acts 1857; Burns 49-3317; Baldwin 5519.

<sup>31</sup> Rev. L. 1831, ch. 102, sec. 6. Acts 1832-33, ch. 74, sec. 3. Rev. Stat. 1838, ch. 103, sec. 1. Rev. Stat. 1843, ch. 10, sec. 15. 1 Rev. Stat. 1852, Acts 1875; Burns 49-3311, 49-3312; Baldwin 5509, 5510. Acts 1885; Burns 55-2102; Baldwin 14321.

<sup>32</sup> 1 Rev. Stat. 1852; Burns 49-3313; Baldwin 5515. Acts 1901; Burns 49-3314; Baldwin 5516.

<sup>33</sup> Rev. Stat. 1838, ch. 401, sec. 1. Rev. Stat. 1843, ch. 10, sec. 33. 1 Rev. Stat. 1852, ch. 37, sec. 1. Acts 1853, ch. 44, sec. 1. Acts 1903, ch. 38, sec. 2. Acts 1920; Burns 36-1809; Baldwin 8739. Acts 1933; Burns 49-1005; Baldwin 7533. Acts 1875 (Spec. Sess.); Burns 49-3318; Baldwin 5521. Acts 1895; Burns 49-3329; Baldwin 10851. Acts 1893; Burns 66-121; Baldwin 16187.

<sup>34</sup> 1 Rev. Stat. 1852; Burns 49-3307; Baldwin 4513.

<sup>35</sup> Rev. L. 1831, ch. 102, sec. 5. 1 Rev. Stat. 1852, Acts 1911; Burns 49-3309; Baldwin 5508.

<sup>36</sup> Rev. Stat. 1838, ch. 103 (second act), secs. 2, 3. 1 Rev. Stat. 1852, Acts 1875; Burns 49-3311; Baldwin 5509.

## 362. SURVEYOR'S RECORD, 1849-. 4 vols. (1-4).

Record of surveys, showing dates of survey and recording, names of township and property owner, location and description of land surveyed, and plat of each survey. Arr. chron. by date of recording. No index. Hdw. 150 pp. 18 x 12 x 1. Surv. off.

## 363. DRAINAGE RECORD, Jan. 28, 1906-. 10 vols. (1-10).

Transcripts of petitions for cleaning, repair, and construction of ditches, showing name and location of ditch; names of petitioners, commissioners, and affected landowners; cause number; and dates of petition and court action. Arr. by name of ditches. Indexed alph. by name of ditch. Hdw. 600 pp. 18 x 12 x 3. Surv. off.

## 364. COMPLETE RECORD OF DITCHES, June 3, 1878-. 19 vols. (1-14; 1-5).

Record of petitions submitted to board of commissioners for construction and repair of county ditches, showing date of petition; names of petitioners, surveyor, and viewers; and name, location, and description of ditch. Arr. chron. by date of petition. Indexed alph. by name of ditch. Hdw. 600 pp. 18 x 12 x 3. Surv. off.

## 365. COMPLETE RECORD OF DITCHES, Jan. 1, 1898-April 8, 1903. 1 vol. (1).

Record of actions and proceedings on petitions for construction and maintenance of 5-mile ditches, showing dates of petition and construction, names of petitioners and ditch, location and description of ditch and land affected, and amount of assessments. Arr. chron. by date of petition. No index. Hdw. 592 pp. 18 x 12 x 3. Surv. off.

## 366. SURVEYORS' RECORDS AND DITCHES, 1899-1926. 1 f. b.

Record of surveys of ditches, showing date and cost of survey, location of ditches, and kind of drainage. Arr. chron. by date of survey. No index. Hdw. 11 x 20 x 12. Attic strg. room.

## 367. [ROADS, BRIDGES, AND DITCHES], 1929-. 1 file cabinet and 4 f. d.

Blueprints and records of roads and bridges constructed by county and ditches cleaned of driftage and obstructions, showing date of filing and names, locations, and description of roads, ditches, and bridges. Arr. chron. by date of filing. No index. Hdw. File cabinet 48 x 27 x 15; f. d. 24 x 13 x 11. Surv. off.

## 368. RECORD OF CLEAN-OUT FOR DITCHES, 1937-. 5 vols. (dated).

Record of clean-out for ditches, showing information as in

entry 364. Arr. alph. by name of ditch. No index. 200 pp. 12 x 8 x 1. Surv. off.

369. [MISCELLANEOUS PAPERS], 1918-. 16 f. b. (labeling varies).

Surveyor's miscellaneous papers, consisting of plans and specifications for construction of ditches, roads, and bridges, field notes, certificates of surveys, and notices, showing dates of survey, plans, specifications, notices, and recording; action of commissioners court; and allotment enforcements. Arr. chron. by date of recording. No index. Hdw. and typed. 13 x 10 5. Surv. off.

370. PLAT BOOK, 1834. 1 vol.

Plat drawings of original survey of Fulton County, showing date of survey; section, range, and township lines; location of lakes, rivers, and creeks; and name of surveyor. Arr. by name of t. No index. Hdw. 100 pp. 18 x 18 x 1. Surv. off.

371. PLAT BOOK [Towns], 1836-. 13 vols.

Plats of towns and villages showing date of plat; names of town, village, subdivision, and property owner; and location and description of property. Arr. chron. by date of plat. No index. Hdw. 50 pp. 11 x 10 x ½. Surv. off.

372. PLAT BOOK [Townships], 1836-. 38 vols.

Plats of townships in Fulton County, showing date of plat, names of township and property owner, and location and description of land. Arr. alph. by name of t. No index. Hdw. 50 pp. 11 x 10 x ½. Surv. off.

373. LEVEL BOOK, 1930-. 27 vols.

Leveling notes made by engineers in making grade surveys, showing date of survey, and name, location, and description of project. Arr. alph. by name of project. No index. Hdw. 75 pp. 6 x 7 x ½. Surv. off.

374. TRANSIT BOOK, 1930-. 6 vols.

Record of transit measurements of county roads, showing date of survey, and name, location, and description of road. Arr. chron. by date of survey. No index. Hdw. 75 pp. 6 x 4 x ½. Surv. off.

375. FIELD NOTES, 1865. 1 vol.

Original field notes recorded while making surveys, showing date of survey, name of surveyor, and location and description of land. Arr. chron. by date of survey. No index. Hdw. 550 pp. 10 x 9 x 2½. Surv. off.

#### MAPS

376. MAP OF FULTON COUNTY, 1932. 1 map.

Political and communication map of Fulton County, showing



date of map; names and locations of incorporated towns; township and precinct boundary lines; section and range lines; and location of roads, bridges, railroads, rivers, and lakes. Walter W. Wilson, draftsman. Handdrawn.  $1\frac{3}{4}$ " to mile. 34 x 48. Surv. off.

377. [MAPS AND BLUEPRINTS], 1929-. 2 file cabinets.

Original maps and blueprints of Fulton County, showing dates of drawings and blueprints, and name of township. Handdrawn. 39 x 48 x 20; 60 x 48 x 34. Surv. off.

## XL. COUNTY HIGHWAY SUPERVISOR

### LEGAL STATUS

The office of county highway supervisor has existed in Fulton County ever since 1933 under the requirements of an act of 1933. The board of commissioners may appoint the county surveyor or some other person to serve as highway supervisor, subject to removal at any time by the board. If no such appointment is made, the surveyor must perform the duties of this office. A person other than the surveyor now holds this office in Fulton County. The law provides that the highway supervisor shall receive a regular salary in an amount fixed by the board of commissioners, equivalent to not less than \$2 nor more than \$3 per year for each mile of highway under his supervision (to be determined at the January session each year). When he furnishes his own conveyance he receives 5 cents for each mile necessarily traveled by him in the discharge of his official duties.<sup>1</sup>

The highway supervisor must be an elector of the county at the time of his appointment; must have been an inhabitant thereof throughout the preceding year;<sup>2</sup> must reside within the county after his appointment; must not hold any other "lucrative office";<sup>3</sup> and must take an oath to support the

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<sup>1</sup> Acts 1933; Burns 36-1101, 36-1110, 49-1010; Baldwin 8699, 8708, 7540. Op. Atty. Gen. 1935, p. 205. Division of accounting and statistics, *Roster of State and Local Officers 1941*, pp. 26, 30.

<sup>2</sup> Const. 1851, art. 6, sec. 4.

A county highway supervisor other than the surveyor is not required to be a qualified registered professional engineer. Op. Atty. Gen. 1939, p. 269.

<sup>3</sup> Const. 1851, art. 2, sec. 9; art. 6, sec. 6.

Serving as surveyor and also as highway supervisor is not prohibited by the Constitution. State ex rel. Bateman v. Hart, 181 Ind. 592, 105 N. E. 149 (1914).

State and Federal Constitutions and faithfully perform the duties of his office.<sup>4</sup>

The board of commissioners authorizes the employment of teams, trucks, and men necessary to assist in the repair work of roads (under the supervision of the county highway supervisor), and determines the rate of wages and hire therefor.<sup>5</sup> The board provides all tools and equipment necessary for the maintenance of roads.<sup>6</sup>

#### FUNCTIONS AND RECORDS

The county highway supervisor has general charge of the maintenance of county roads, bridges, and culverts;<sup>7</sup> divides the county into road districts; maps all existing roads, giving each road a separate name or number and setting forth the length and character of each road and the kind and volume of traffic;<sup>8</sup> fixes maximum limits of loads for roads, bridges, and culverts; must not spend more than \$50 for the repair of a bridge or culvert without the approval of the board of commissioners;<sup>9</sup> cuts noxious weeds and trims hedges along the roads when the landowners fail to do so;<sup>10</sup> buries or cremates carcasses found on highways or nearby lands when the owners fail to do so;<sup>11</sup> establishes standards for maintenance according to topography, nature, volume of traffic, and the availability of repair materials; annually makes a budget estimate of the cost of maintenance during the next calendar year;<sup>12</sup> and attends meetings of the board of com-

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<sup>4</sup> Const. 1851, art. 15, sec. 4. Rev. Stat. 1838, ch. 91, sec. 27. Rev. Stat. 1843, ch. 16, sec. 80. Acts 1905; Burns 10-3708; Baldwin 2660. 1 Rev. Stat. 1852; Burns 49-101, 49-102, 49-104; Baldwin 13054, 13055, 13057.

<sup>5</sup> Acts 1933; Burns 36-1107; Baldwin 8705.

<sup>6</sup> Acts 1933; Burns 36-1101, 36-1110; Baldwin 8699, 8708.

<sup>7</sup> Acts 1899, ch. 175. Acts 1913, ch. 330, sec. 2. Acts 1933; Burns 36-1102, 36-1110; Baldwin 8700, 8708.

<sup>8</sup> Acts 1933; Burns 36-1109, 36-1110; Baldwin 8707, 8708.

<sup>9</sup> Acts 1933; Burns 36-1102, 36-1110; Baldwin 8700, 8708.

<sup>10</sup> Acts 1859, ch. 15, sec. 1. Acts 1885 (Spec. Sess.), ch. 24. Acts 1829; Burns 15-905; Baldwin 3720. Acts 1891; Burns 30-302; Baldwin 7648. Acts 1915; Burns 36-1805; Baldwin 8618. Acts 1939; Burns, 1941 suppl., 36-714; Baldwin, 1939 suppl., 8619-1.

<sup>11</sup> Acts 1903; Burns 16-814, 16-816; Baldwin 3899, 3901.

<sup>12</sup> Acts 1933; Burns 36-1103, 36-1110; Baldwin 8701, 8708.

This budget estimate is under the control of the board of commissioners and may be changed at any time by that board. *Bateman v. State*, 214 Ind. 138, 14 N. E. (2d) 1007 (1938).

missioners<sup>13</sup> and sessions of the annual road school at Purdue University.<sup>14</sup>

The records of the county highway supervisor are maps of the highway system made by him,<sup>15</sup> reports of work in progress,<sup>16</sup> monthly reports to the board of commissioners of all work done, and annual reports of his work, with complete statements of all expenditures under his supervision.<sup>17</sup>

378. HIGHWAY SUPERINTENDENT'S [Supervisor's] LEDGER OF EXPENDITURES, 1940-. 2 vols.

Record of expenditures for construction and maintenance of highways, showing date, number, purpose, and amount of warrant; name of payee; and total expenditures for the month. Arr. chron. by date of warrant. No index. Hdw. 350 pp. 18 x 18 x 3½. Hwy. sup. off.

379. BRIDGES, 1937-. 1 f. b.

Specifications and estimates for construction of bridges, showing date of filing; name, location, and specifications of bridge; and estimated cost. Arr. chron. by date of filing. No index. Typed. 10 x 4 x 14. Hwy. sup. off.

380. ROAD RECORD AND HIGHWAY RECORD, 1882-. 3 vols. (1-3).

Record of appointments of persons to supervise road work, showing date of appointment, name of appointee and nature of duties. Arr. chron. by date of appointment. No index. Hdw. 250 pp. 16 x 12 x 2. Attic strg. room.

381. RECORD OF ROADS DRAGGED AND GRADED, 1938-. 2 f. b.

Copies of reports by highway supervisor to board of commissioners of costs of labor and materials used for maintenance of highways, showing date of service; names and time of laborers employed; amounts of gas, oil, and material used; and total cost. Arr. chron. by date of service. No index. Hdw. 24 x 13 x 11. Hwy. sup. off.

382. COUNTY HIGHWAY INVOICES, 1936-. 2 f. b.

Delivery tickets for materials furnished highway department, showing date of ticket, name of vendor, quantity and description of material, cost per unit, and total amount of invoice. Arr. chron. by date of ticket. No index. Hdw. 14 x 10 x 4. Hwy. sup. off.

<sup>13</sup> Acts 1933; Burns 36-1103, 36-1104, 36-1110; Baldwin 8701, 8702, 8708.

<sup>14</sup> Acts 1933; Burns 36-1110; Baldwin 8708.

<sup>15</sup> Acts 1933; Burns 36-1109, 36-1110; Baldwin 8707, 8708.

<sup>16</sup> Acts 1933; Burns 36-1106, 36-1110; Baldwin 8704, 8708.

<sup>17</sup> Acts 1933; Burns 36-1104, 36-1110; Baldwin 8702, 8708.

## 383. RECORD OF GRAVEL PURCHASED, 1938-. 1 vol.

Delivery tickets for gravel furnished highway department showing date of purchase, name of vendor, kind of gravel, and amount purchased. Arr. alph. by name of vendor. No index. Typed. 200 pp. 12 x 10 x 2. Hwy. sup. off.

## 384. ROAD REPORTS, 1915-. 1 f. d.

Reports by viewers and engineers to highway superintendent, 1915-32, and highway supervisor, 1933-, of estimated cost of repair and maintenance of county roads, showing date of report and filing, and names of township and road. Arr. chron. by date of filing. No index. Hdw. 24 x 13 x 11. Hwy. sup. off.

## 385. GAS AND OIL CONSUMPTION RECORD, 1938-. 1 f. d.

Record of gas and oil consumed by trucks and tractors for maintenance of highways, showing date of delivery, name of vendor, and total amounts purchased and consumed per month. Arr. chron. by date of delivery. No index. Hdw. 13 x 9 x 1. Hwy. sup. off.

## 386. MAP OF FULTON COUNTY, 1932-. 1 map.

Communication map of Fulton County, showing date of map and names and locations of township, towns, villages, rivers, creeks, railroads, and main roads. Walter W. Wilson, draftsman. Handdrawn. 1¾" to 1 mile. 48 x 35. Hwy. sup. off.

## XLI. COUNTY AGRICULTURAL AGENT

## LEGAL STATUS

The office of county agricultural agent has existed in Fulton County ever since 1918 under a permissive act of 1913 and a mandatory act of 1937. The county agricultural agent is appointed for a 1-year term by the director of the Agricultural Extension Service of Purdue University, with the approval of the County Agricultural Agent Board (a State board). This board prescribes his qualifications and may remove him from office. Any vacancy in office is filled in the manner provided for making the original appointment. Before 1937 the county agricultural agent was appointed annually by Purdue University (except that reappointments after 1923 could be made for 2-year terms, subject to the approval of the State Board of Education and county board of education. The county council is required to appropriate not less than \$1,000 annually for the expenses of this office. The act of



1937 provides that the county agricultural agent is to receive through Purdue University an annual salary of not less than \$2,000 (to be paid from a certain State fund provided for in that act), and that the County Agricultural Agent Board must "make a distribution of State funds to the several counties, on a graduated scale, according to the qualifications of the county agricultural agent employed therein and the needs of the county".<sup>1</sup>

Under a mandatory law of 1911 the board of commissioners must authorize the payment of hall rents, printing, advertising, prizes for contests, and other local expenses of a county farmers' institute. Such expenditures may not exceed 25 cents per square mile the area of the county.<sup>2</sup> The county council and board of of commissioners may appropriate \$200 annually for a corn growers' association or horticultural society, if there is no agricultural fair or association in active operation in the county.<sup>3</sup>

#### FUNCTIONS AND RECORDS

The county agricultural agent assists the farmers in obtaining greater efficiency, marketing by grade, using better sires, producing more legumes, preventing soil erosion, intelligently studying land use, improving pasture, using higher yielding varieties and adapted strain of seeds, culling flocks and herds, destroying insects and noxious weeds, and practicing careful organization in the farm business. The betterment of the rural home is his ultimate objective.<sup>4</sup>

Under the supervision of Purdue University, he conducts

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<sup>1</sup> Acts 1913, ch. 24, sec. 12. Acts 1913, 1923, 1927, 1937; Burns, 1941 suppl., 28-4911; Baldwin, 1937 suppl., 6457. Op. Atty. Gen. 1937, pp. 144, 561. Information obtained from H. J. Reed, director of the Department of Agricultural Extension, Purdue University, on February 22, 1941, by Julian Jacobson.

The appropriation act of 1941 appropriated \$184,000 per year for operating expenses of the County Agricultural Agent Board from July 1, 1941 through June 30, 1943. Acts 1941, ch. 231, sec. 2.

Under the law in force in 1931 the State's contribution was not available in absence of appropriation by the county council. Op. Atty. Gen. 1931, p. 826.

The county could accept funds from the local farm bureau to be paid for the expenses of the office of county agricultural agent. *Ibid.*

<sup>2</sup> Acts 1911; Burns 28-5625; Baldwin 3610. Op. Atty. Gen. 1934, p. 295.

<sup>3</sup> Acts 1917, 1933; Burns 15-319; Baldwin 3544.

<sup>4</sup> Twenty-sixth Annual Report of Purdue University, Department of Agricultural Extension, 1936-

institutes, schools, and demonstrations to aid the farmers in the solution of these problems. He cooperates with farmers' clubs and other rural and civic organizations; assists boys' and girls' clubs and contest work; encourages other movements for the advancement of agricultural and country life; gives advice on practical farm problems; and aids the schools of the county in giving practical education in agriculture and domestic science.<sup>5</sup>

The county agricultural agent is an ex officio deputy State entomologist but is called upon to function in such capacity only in case of emergency.<sup>6</sup>

The records of the agricultural agent consist of reports to Purdue University concerning his activities, compiled under the direction of the university.

387. ANNUAL NARRATIVE REPORT, 1920-. 3 f. b.

Copies of agricultural agent's annual narrative reports to Purdue University Agricultural Extension Service on activities in extension work, showing date of report; names of agent and county; number of farm and club visits; activities on soil improvement, grain, fruit, and vegetable growing, and care and breeding of stock; and data on farm management and marketing of crops. Arr. chron. by date of report. No index. Typed. 24 x 13 x 11. Agr. agt. off.

388. COUNTY AGRICULTURAL AGENT'S MONTHLY REPORTS TO PURDUE UNIVERSITY, 1932-. 1 f. b.

Copies of monthly reports by county agricultural agent to Purdue University Agricultural Extension Service covering project activities and results of farm program, showing dates of report and period covered, names of project and agent, nature and number of projects; number of farm visits, recommendations made and results therefrom, and progress made in farm management and marketing of crops. Arr. chron. by date of report. No index. Typed. 10 x 16 x 8. Agr. agt. off.

389. PROJECT AND INFORMATION FILES, 1920-. 1 f. b.

Copies of reports covering projects supervised by agricultural agent, showing dates of report and filing, names of project and sponsor, and leaflet on project activities. Arr. chron. by date of filing. No index. Typed. 24 x 13 x 11. Agr. agt. off.

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<sup>5</sup> *Ibid.*, pp. 22-100. Acts 1913, 1923, 1927, 1937; Burns, 1941 suppl., 28-4911; Baldwin, 1937 suppl., 6457.

<sup>6</sup> Acts 1915; Burns 15-1214; Baldwin 3571. Information obtained from Frank N. Wallace, State Entomologist, on January 20, 1941, by William E. Chambers.

390. COUNTY AGENT'S RECORD OF PURE BRED STOCK, 1920-  
1 f.b.

Applications for registration of pure-bred stock, showing dates of application and filing; name of owner; and name, sex, color, age, and name of sire and dam of animal. Arr. chron. by date of filing. No index. Typed. 24 x 13 x 11. Agr. agt. off.

391. [CROPS], 1936-. 1 f. b.

Farmers' reports of 5-acre corn plots and alfalfa acreage, showing dates of report and filing, name of farmer, location and description of corn plot and alfalfa acreage, kind of corn, and average crop yield per acre. Arr. chron. by date of filing. No index. Typed. 24 x 13 x 11. Agr. agt. off.

392. PERMANENT RECORD OF 4-H CLUBS, 1926-. 4 f. b.

Card record of 4-H Club membership, showing date of enrollment, names and addresses of members and parents, age of member, school attended, number of years engaged in 4-H Club work, and nature of project work. Arr. alph. by name of member. No index. Typed. 1 6 x 9 x 7. Agr. agt. off.

393. FULTON COUNTY, 1932. 1 map.

Political and communications map of Fulton County, showing date of map, names and locations of townships, towns, villages, rivers, creeks, lakes, railroads, and highways. Drawn by Walter W. Wilson, Rochester. Scale  $1\frac{3}{4}$ " to 1 mile. 48 x 35.. Agr. agt. off.

## XLII. COMMISSION OF PUBLIC RECORDS

### EVOLUTION AND STRUCTURAL ORGANIZATION

The commission of public records has existed in Fulton County ever since 1939 under the requirements of an act of 1939. The commission consists of the judge and clerk of the circuit court, the president of the board of commissioners, and the county auditor. The clerk of the circuit court is secretary, and another member (selected by the commission) serves as chairman.<sup>1</sup>

The members of the commission serve without compensation and receive no reimbursement for any expenses.<sup>2</sup>

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<sup>1</sup> Acts 1939; Burns, 1941 suppl., 49-3701; Baldwin, 1939 suppl., 5492-1.

For laws concerning eligibility, oath, and removal of those officers, see the essays on circuit court, board of commissioners, auditor, and clerk of the circuit court.

<sup>2</sup> Acts 1939; Burns, 1941 suppl., 49-3701; Baldwin, 1939 suppl., 5492-1.

An act of 1877 required the board of commissioners to order copies to be made of any public records in the county when necessary for their preservation.<sup>3</sup> An act of 1925 provided that any public official, at his discretion, may turn over to the Indiana State Library, for permanent preservation, any official books, records, documents, original papers, newspaper files, or printed books or materials, not in current use in his office;<sup>4</sup> and an amendatory act of 1937 added a provision that the director of the State Library, at his discretion, may make a copy of any official book, record, document, original paper, newspaper, or printed book or material in any public office, for preservation in the State archives.<sup>5</sup> An act of 1935 created within the executive department of the State a "Commission on Public Records," consisting of the Governor, the Secretary of State, the State Examiner, the director of the State Library, and the director of the Historical Bureau. This act is almost identical with the act of 1939 creating a "commission of public records" in each county, except for the provisions relative to ex officio members of the commission.<sup>6</sup> These laws reflect the past and present attitudes of the General Assembly toward the preservation of public records.

#### FUNCTIONS AND RECORDS

It is the duty of the commission to classify public records on the following basis: (a) Those having no official or historical value; (b) those of current official value; (c) those of official value, but rarely consulted and of no appreciable value to the officer with whom they are filed; and (d) those of purely historical value.<sup>7</sup>

Records of class (a), occupying space to no purpose in the offices and storerooms of the county, must be destroyed or otherwise disposed of 3 years after they were originally filed, unless a law prohibits their destruction or requires

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<sup>3</sup> Acts 1877; Burns 26-634; Baldwin 5339.

<sup>4</sup> Acts 1925; Burns 63-830; Baldwin 10287.

<sup>5</sup> Acts 1925, 1937; Burns, 1941 suppl., 63-830; Baldwin, 1937 suppl., 10287.

<sup>6</sup> Acts 1935; Burns, 1941 suppl., 63-1901 to 63-1910; Baldwin, 1935 suppl., 15400-1 to 15400-10.

Op. Atty. Gen. 1939, p. 259.

<sup>7</sup> Acts 1939; Burns, 1941 suppl., 49-3702; Baldwin, 1939 suppl., 5492-2.



that they be kept beyond that period.<sup>8</sup> Records of class (b) are to be "retained in the office where they are required to be filed."<sup>9</sup>

Records of classes (c) and (d) must be transferred to the State Library 3 years after the date of the filing, unless they are then in frequent use by the officer in charge. In the event of such transfer, the records of class (c) will be added to the "archives" of the Library, while those of class (d) will constitute a part of the "collection" of that institution.<sup>10</sup>

. When any public records are ordered destroyed or transferred, the commission must enter an order to that effect on its minutes. The order must be dated and must contain a general description of the public records to be destroyed or transferred.<sup>11</sup>

It is unlawful for any public official or person to destroy any public record unless the commission has previously given its approval in writing and entered such approval on the minutes of the commission.<sup>12</sup>

Within the meaning of the act of 1939, a public record is any written or printed book, paper, document, map, or drawing which is the property of any county, and in or on which any entry has been made or is required by law to be made, or which any officer or employee of the state has received or is required to receive for filing.<sup>13</sup>

No records of the commission of public records were found in this county.

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<sup>8</sup> Acts 1939; Burns, 1941 suppl., 49-3703, 49-3704; Baldwin, 1939 suppl., 5492-3, 5492-4.

<sup>9</sup> Acts 1939; Burns, 1941 suppl., 49-3702; Baldwin, 1939 suppl., 5492-2.

<sup>10</sup> Acts 1939; Burns, 1941 suppl., 49-3704 to 49-3706; Baldwin, 1939 suppl., 5492-4 to 5492-6.

<sup>11</sup> Acts 1939; Burns, 1941 suppl., 49-3707; Baldwin, 1939 suppl., 5492-7.

<sup>12</sup> Acts 1939; Burns, 1941 suppl., 49-3708; Baldwin, 1939 suppl., 5492-8.

<sup>13</sup> Acts 1939; Burns, 1941 suppl., 49-3709; Baldwin, 1939 suppl., 5492-9.



PUBLICATIONS OF THE INDIANA HISTORICAL RECORDS SURVEY

*INVENTORY OF THE COUNTY ARCHIVES OF INDIANA*

The following volumes of this series have been issued by  
The Indiana Historical Records Survey:

- NO. 2. ALLEN COUNTY  
(Indianapolis, The Indiana Historical Records Survey, 1939. 379 p.)
- NO. 6. BOONE COUNTY  
(Indianapolis, Indiana Historical Bureau, 1937. 143 p.)
- NO. 11. CLAY COUNTY  
(Indianapolis, The Historical Records Survey, 1939. 404 p.)
- NO. 18. DELAWARE COUNTY  
(Indianapolis, The Indiana Historical Records Survey, 1940. 386 p.)
- NO. 25. FULTON COUNTY  
(Indianapolis, The Indiana Historical Records Survey, 1942. 391 p.)
- NO. 28. GREENE COUNTY  
(Indianapolis, The Historical Records Survey, 1939. 204 p.)
- NO. 34. HOWARD COUNTY  
(Kokomo, published by Howard County, Indiana, 1939. 152 p.)
- NO. 38. JAY COUNTY  
(Indianapolis, The Indiana Historical Records Survey, 1941. 399 p.)
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(Indianapolis, Indiana Historical Bureau, 1939. 189 p.)
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(Indianapolis, Indiana Historical Bureau, 1938. 219 p.)
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(Indianapolis, The Indiana Historical Records Survey, 1941. 431 p.)

*MUNICIPAL GOVERNMENT IN INDIANA*

Vol. 3: Third Class Cities, Part A: Master Essays

(Indianapolis, The Indiana Historical Records Survey, 1942. 381 p.) Part B: Kokomo (Indianapolis, The Indiana Historical Records Survey, 1942. 142 p.)

*A DIRECTORY OF CHURCHES AND RELIGIOUS ORGANIZATIONS*

The following volumes of this series have been published:

Vol. I. MARION COUNTY (Indianapolis) 1940

(Indianapolis, The Indiana Historical Records Survey, 1940. 119 p.)

Vol. II. CALUMET REGION (Lake, Porter, and La Porte Counties) 1941

(Indianapolis, The Indiana Historical Records Survey, 1941. 102 p.)



Vol. III. NORTHERN INDIANA, Part 1 (Adventist Bodies -  
Menonite Bodies) 1941 (Indianapolis, The Indiana  
Historical Records Survey, 1941. 239 p.) Part 2  
Methodist Bodies - Young Women's Christian  
Association) 1941 (Indianapolis, The Indiana  
Historical Records Survey, 1941. 238 p.)

*VITAL STATISTICS GUIDE*

GUIDE TO PUBLIC VITAL STATISTICS RECORDS IN INDIANA  
(Indianapolis, The Indiana Historical Records Survey, 1941.  
265 p.)

1951



